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Supreme Court, U.S.
FILED

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OFFICE OF THE CLERK

NO. 06-

IN THE
SUPREME COURT OF THE UNITED STATES
_____ TERM, 2006

CAPTAIN SHERIFF SAUDI,

Petitioner,

VS.

NORTHROP GRUMMAN CORPORATION, NEWPORT NEWS SHIPBUILDING, INCORPORATED, NEWPORT NEWS DRY DOCK AND SHIPBUILDING, INC., AND KEPPEL GROUP CORPORATION, d/b/a KEPPEL OFFSHORE & MARINE, LIMITED, d/b/a KEPPEL SHIPYARD (PTE), LTD.,

Respondents.

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT

PETITION FOR A WRIT OF CERTIORARI

JOE ALFRED IZEN, JR.
5222 SPRUCE ST.
BELLAIRE, TEXAS 77401
(713) 668-8815
(713) 668-9402 FAX

ATTORNEY FOR PETITIONER

STATEMENT PURSUANT TO RULE 29.6

Northrup Grumman is believed to be a publicly-held corporation. Northrup Grumman owns 100% of Newport News Shipbuilding, Inc. and Newport News Dry Dock and Shipbuilding, Inc. Keppel Group Corporation, d/b/a Keppel Offshore & Marine, Limited, d/b/a Keppel Shipyard (Pte), Ltd., is believed to be a publicly-held corporation.

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TO THE HONORABLE CHIEF JUSTICE OF THE UNITED STATES SUPREME COURT AND TO THE ASSOCIATE JUSTICES OF THE UNITED STATES SUPREME COURT:

Petitioner, Captain Sheriff Saudi, files this Petition for Writ of Certiorari requesting that this Honorable Court review the Judgment of the United States Court of Appeals for the Fourth Circuit affirming the decision of the United States District Court for the Eastern District of Virginia, Norfolk Division.

OPINIONS BELOW

A copy of the Judgment of the United States Court of Appeals for the Fourth Circuit affirming the Decision of the United States District Court for the Eastern District of Virginia, Norfolk Division, is attached as Appendix A.

A copy of the Opinion of the United States Court of Appeals for the Fourth Circuit affirming the decision of the United States District Court for the Eastern District of Virginia, Norfolk Division, is attached as Appendix B.

A copy of the Judgment and Amended Judgment of the United States District Court for the Eastern District of Virginia are attached as Appendix C and Appendix D, respectively.

STATEMENT OF JURISDICTION

This is a civil appeal from a Decision of a United States District Court and a Federal Circuit Court of Appeals. The jurisdiction of this Court is invoked under 28 U.S.C. §1254(1).

STATUTES INVOLVED

The District Court had jurisdiction over Petitioner's claims under 28 U.S.C. §1333. Appeal was properly taken by Petitioner to the United States Court of Appeals for the Fourth Circuit pursuant to 28 U.S.C. §1291 and Rule 4 of the Fed.R.App.Proc.

SUMMARY OF THE CASE

A portside hose crane collapsed on the S/T Marine Atlantic on May 17, 1999 during lightering operations in the Gulf of Mexico. Petitioner, Captain Sheriff Saudi, who was being off-lifted by the crane to a smaller tender vessel as part of lightering operations suffered severe injuries.

The vessel S/T Marine Atlantic was, along with her sister ship, the S/T Marine Pacific, fabricated and constructed in the Newport News Shipyards in 1979.

The owner of the Newport News Shipyards ordered the portside hose crane (which catastrophically failed some twenty years later) from the Appleton Machine Company in Appleton, Wisconsin. Appleton shipped the crane to a warehouse at the Newport News Dry Dock facility. Sometime thereafter, the portside hose crane was removed from storage and installed on board the vessel by Newport News Dry Dock. Dry Dock personnel claim they tested the crane after it was installed and then released it to maritime

use.

In about 1981, the vessel S/T Marine Atlantic was anchored in a bay in Malaysia and deactivated. It remained there until the early part of 1993 when a "team" headed by American company, Marine Transport Lines, traveled to the vessel and assessed it for reactivation. A Bermudan corporation, Marine Atlantic, Ltd., purchased the vessel and moved it to the Keppel Shipyards where it was supposedly refurbished. Thereafter, the vessel was placed in maritime service for charter. (TR. Vol. 1, Oct. 12, 2004, P.87a, LL 4-9).

During 1999, Koch Petroleum Group, Ltd. chartered the S/T Marine Atlantic for lightering operations in the Gulf of Mexico.

On May 17, 1999, Petitioner Saudi suffered serious injuries when the portside hose crane used to off-lift him to the motor vessel Discovery failed and dumped him into the Gulf of Mexico. The crane lost its arm which free fell,

struck the side of the vessel, broke off, and followed Saudi into the waters.

Newport News Shipbuilding, Inc. and Northrop Grumman, Inc., were initially sued by Saudi in an Original Complaint filed in the District of Columbia. (Dkt No. 1). Newport News Shipbuilding, Inc. ("NNS") and Northrop Grumman Corporation ("NG") filed various summary judgment motions that were not successful. (Dkt Nos. 47 and 90). NNS and NG also filed motions seeking sanctions for alleged discovery abuse, but failed to file Rule 26(a) F.R.Civ.Proc. Disclosures until the Court instructed Saudi to file a Motion to Compel. (TR. Vol. June 14, 2004, P. 67a, LL 19-25; P. 68a, LL 1-11).

Saudi filed a Motion seeking an enlargement of time within which to disclose his experts under Rule 26 F.R.Civ.Proc.

(App. Tab 25, Dkt. 73, P. 243-249).

The Court granted this extension and instructed Saudi to disclose the names and opinions of three expert witnesses who would provide testimony for the Plaintiff at trial. (Dkt. No. 82).

Saudi timely complied with the Court's order. (TR. Vol. Oct. 12, 2004, P. 88a, LL 10-25). Notwithstanding this timely compliance, NNS and NG filed a Motion to Strike Saudi's Amended Designation of Experts. (App. Tab 27, Dkt No. 77, P. 260-261). Saudi also filed a Motion to Compel NNS and NG to designate a witness with knowledge concerning the crane that injured him along with a Motion for Leave to Amend. (App. Tab 30, Dkt No. 86, P. 272-293). The Court never acted on Saudi's Motion for Designation despite the fact that the witnesses NG and NNS produced in response to Saudi's earlier designation professed a total lack of knowledge concerning the crane which had been placed on board the S/T Marine Atlantic

when it was built and which injured Saudi. (App. Tab 30, Dkt No. 86, P. 272-293).

When NNS and NG urged a Second Motion to Strike Saudi's Expert Witnesses at the pretrial conference based on Saudi's failure to select two of his expert witnesses, Wyman and Morgan, out of the original thirty Saudi had attempted to designate before the trial, the District Judge responded:

> The other two who weren't among the original 30 that he identified, I'm not sure what to say about that because I think what you say is you assume that that's where they've come from because he picked three out of the 30 instead of coming up with new people. I don't know what to say about that at this point.

(TR. Vol. September 24, 2004, Pretrial Conf., P. 70a, LL 18-24).

Prior to even filing the Motions to Strike Saudi's Disclosed Experts, Respondents' counsel Stauffer took it upon himself to contact some of the experts to determine whether "they intended to testify for Plaintiff." The ones he

contacted then refused to act as Saudi's experts. (TR. Vol. August 4, 2004, P. 71a, LL 9-14).

At trial the Court commented on its order enlarging time:

> Now you did not tell me at that hearing that you were going to seek two people that were not on your list so I did not have an opportunity to react to that. You just did it. You just picked people which you had previously not identified.

The clear wording of the Court's prior order did not restrict Saudi to a choice of experts out of the previous experts he had tried to list. Despite that fact, the Trial Court struck Saudi's two design defect experts, Wyman and Moran, and effectively terminated the litigation in NNS and NG's favor. (TR. Vol. 1, October 12, 2004, P. 92a, LL 11-23).

The Court imposed this outcome determinative sanction despite the disclosure of these witnesses prior to trial and the fact that Respondents had been able to take their depositions. (TR. Vol. 1, October 12, 2004, P. 90a, LL 5-21).

The Trial Court also refused to issue subpoenas so that Saudi, who had been designated as a pro se litigant with limited access to court process, could obtain the trial

testimony of the adverse expert witnesses Respondents designated. (TR. Vol. 1, October 12, 2004, P. 89a, LL 2-19).

These actions unfairly and illegally deprived Petitioner Saudi of the expert testimony he needed to meet his burden of proof on the design defect and failure to warn issues. The Court ultimately granted NNS' and NG's Motion for Judgment on Partial Findings Under Rule 52(c) Federal Rules of Civil Procedure based on lack of expert testimony supporting Saudi's case. (TR. Vol. 2, October 13, 2004, P. 96a, LL 1-19).

The expert witness reports of the excluded experts were submitted into the record as an offer of proof for "purposes of appeal." (TR. Vol. 2, October 13, 2004, P. 94a, LL 3-24 and Exhibit 40).

Respondents conceded the importance of the excluded testimony when they admitted that Saudi's other expert, Dr. Mahmoud, could testify only to the issues in the case pertaining to the effect of corrosion. When Moran and Wyman were struck, Saudi was left without an expert witness to testify on defective design and failure to warn. (TR. Vol. 2, October 13, 2004, P. 95a, LL 5-22).

STATEMENT OF THE CASE

1. A FEDERAL COURT CANNOT IMPOSE A RULE 37 F.R.CIV.PROC. SANCTION IN THE ABSENCE OF PROOF THAT THE SANCTIONED PARTY HAS VIOLATED THE TERMS OF A SPECIFIC ORDER.

STANDARD OF REVIEW

This Court has never reviewed the issue of whether a sanction in a civil case, which effectively terminates the litigation, must be based on proof of violation of the terms of a specific order.

However, the Court has held that expert witnesses may not be precluded from testifying in a criminal case without proof of violation of the terms of a specific order. Taylor v. Illinois 484 U.S. 400, 412 (1988). This Court has also required proof of violation of the terms of a specific order in reviewing civil contempt findings. Mine Workers v. Bagwell, 512 U.S. 827, 840 (1994).

In the Fourth Circuit, the Court of Appeals reviews the decision of the District Court to admit or exclude evidence for an abuse of discretion. Westberry v. Ab, 178 F.3d 257, 261 (4th Cir. 1999). Citing General Electric Co.

v. Joiner, 522 U.S. 136, 139 (1997). A District Court abuses its discretion if its conclusion is guided by erroneous legal principles or rests upon a clearly erroneous factual finding. See Koon v. United States, 518 U.S. 81, 100 (1996) and United States v. Barber, 119 F.3d 276, 283 (4th Cir.) (en banc).

Even if a District Court applies correct legal principles to adequately supported facts, the discretion of the Trial Court is not boundless and subject to automatic affirmance. An Appellate Court is not a rubber stamp for orders of lower Courts. Wilson v. Volkswagen of Am., Inc., 561 F.2d 494, 506 (4th Cir. 1977).

Due to the crucial importance of expert testimony in cases where expert testimony is required to prove causation, many Circuits have formulated a test that must be satisfied before such a sanction can be imposed. When sanctions excluding evidence are outcome determinative, they are tantamount to a dismissal with prejudice. Dismissal with prejudice is a harsh sanction that runs counter to the strong policy favoring the disposition of

cases on the merits. Figueroa Ruiz v. Alegria, 896 F.2d 645, 647 (1st Cir. 1990).

The draconian sanctions imposed in this case were based on Rule 37 of the Federal Rules of Civil Procedure. Civil Rule 37 requires that a Court order specifically compelling discovery be entered and then transgressed before a dismissal can ensue. R.W. Int'l. Corp. v. Welch Foods, Inc., 937 F.2d 11, 15 (1st Cir. 1991). Rule 37 does not permit the District Court to jump directly to the most dire sanctions without assessing an intermediate or first step. To the contrary, Rule 37's "language clearly requires two things as conditions precedent in order to engage the gears of the rule's sanction machinery: a Court order must be in effect and then must be violated, before the enumerated sanctions can be imposed. R. W. Int'l. Corp., 937 F.2d at 15.

The United States Court of Appeals for the Federal Circuit adopted the same rule and observed in Genentech, Inc. v. U.S. Int'l. Trade Comm., 122 F.3d 1409, 1422 (Fed. Cir. 1997).

> While we are hesitant to constrain the ITC to imposing sanctions only when an order to compel has been violated, our precedent is clear that before the sanction of dismissal may be imposed, the offending party must have notice of the alleged discovery misconduct and be given an opportunity to comply.

Citing Ingalls Shipbuilding, Inc. v. United States, 857 F.2d 1448, 1455 (Fed. Cir. 1988) (Requiring a predicate warning order setting out the party's deficiencies before sanctions can be imposed).

The Federal Circuit has adopted the Second Circuit's position set out in Daval Steel Prods. v. M/V Fakredine, 951 F.2d 1357, 1363 (2d Cir. 1991) (Stating that Rule 37 requires, as a predicate for sanctions, a clearly articulated order of the Court requiring specified discovery).

Here, the District Court made no finding of bad faith or motive to mislead Respondents. The exclusion of critical evidence is an extreme sanction not normally to be imposed absent a showing of willful deception or flagrant disregard of a court order by the proponent. Dudley v.

South Jersey Metal, Inc., 555 F.2d 96, 99 (3d Cir. 1977). In weighing the sanctions to be imposed, the Trial Court must consider how important such testimony is or might have been and how critical is its absence. Meyers v. Pennypack Woods Home Ownership Ass'n., 559 F.2d 894, 904-905 (3d Cir. 1977).

The Meyers factors considered by the Third Circuit which may support exclusion of evidence include:

> (1) prejudice or surprise in fact of the party against whom the excluded witnesses would have testified; (2) the ability of that party to cure the prejudice; (3) the extent to which waiver of the rule against calling unlisted witnesses would disrupt the orderly and efficient trial of the case...; and (4) bad faith or willfulness in failing to comply with the Court's order.

Meyers at 904-05. Here, Saudi sought and received an enlargement of time from the Trial Court to disclose experts under Rule 26 Federal Rules of Civil Procedure. Saudi filed a specific motion that the Court granted. The expert witnesses which Saudi disclosed were deposed by Appellees before trial. There was no prejudice. The District Court conceded it had not specifically limited

Saudi to a selection of three experts out of the initial thirty which he had attempted to disclose before the Court granted his motion to enlarge time.

The exclusion of Saudi's two witness, Wyman and Moran, on whom Saudi relied to provide proof of causation in support of his defective design and installation claims was not only an abuse of discretion, but also violated the proper legal interpretation accorded to Rule 37 by all of the Circuits.

In Meyers, the Third Circuit was faced with a situation where a Trial Court had excluded critical evidence which resulted in termination of the litigation in favor of the party seeking exclusion. The Third Circuit in Meyers noted that any possible prejudice to the complaining party was:

> Minimized not only by Pennypack's familiarity at least with Sweeney, its former president, but by the sequence of events. The letter to which Pennypack objected so strenuously followed by only three days Meyers' filing of his amended pretrial memorandum to which Pennypack voiced no objection. **More importantly, there remained after the letter was sent almost three weeks before trial. Yet, Pennypack**

> **made no effort to depose or serve interrogatories on the new witnesses or even to request Meyers' counsel to furnish additional information or written statements of the proposed testimony.**

Meyers at P. 905.

In sharp contrast to Meyers where the Third Circuit reversed the evidentiary exclusion of undeposed witnesses, Respondents took the deposition of Saudi's excluded experts, Wyman and Moran. A close reading of Meyers supports the conclusion that there was no basis at all for entry against Saudi of any sanctions based on Saudi's filing of a Motion to Enlarge Time Within Which to Make Rule 26 Disclosures, the Trial Court's Order which allowed Saudi to list three experts without limiting them to the "pool" interpretatively suggested by Respondents' counsel and Saudi's full compliance with the required disclosures concerning the three witnesses as directed by the Trial Court's order.

A Court should impose the least severe sanction necessary to insure prompt and complete compliance with its discovery order(s). United States v. Turner, 871 F.2d

1574,1580 (11th Cir. 1989). Contrary to Respondents' arguments in the Trial Court, the Court had already sanctioned Saudi when it granted his enlargement of time. The Trial Judge limited Saudi to only three experts on causation and made it clear he was doing so because of Saudi's late designation. (TR. Vol. August 4, 2004, P. 70a, LL 3-5; P. 72a, LL 2-13):

> Court: And because of your lateness, I am going to limit you to three. That does not mean you have to have three. You can have none, one, two, or three, but not more than three and you will have to have the information to the Defendant by August 12.

(TR. Vol. August 4, 2004, P. 72a, LL 2-25).

A continuance is the preferred sanction for any discovery delay. Respondents never asked for a continuance; therefore, their claims of prejudice have no weight. Lemaire By and Through Lemaire v. U.S., 826 F.2d 949 (10th Cir. 1987).

The Trial Court clearly abused its discretion when it excluded the trial testimony of Saudi's two expert

witnesses, Moran and Wyman.

2. A FEDERAL COURT IS REQUIRED TO TRANSFER VENUE OF AN ACTION TO AVOID THE BAR OF LIMITATIONS.

Keppel's eleventh hour admission that it operated a subsidiary in Brownsville, Texas, led to Saudi's to request that the Court transfer the case to the Southern District of Texas, Brownsville Division, so it could be pursued there. The Court denied Saudi's request claiming that he should refile his claims against Keppel there if he wished to pursue them. (TR. Vol. March 29, 2004, P. 64a, LL 1-25).

Here, Saudi was required to bring his claims within three years of May 17, 1999 under the three-year admiralty statute of limitations. By the time the District Court signed a judgment granting Keppel's Motion to Dismiss for Lack of Personal Jurisdiction on April 6, 2004, the three-year statute of limitations had long expired. (App. Tab. No. 13, Dkt. No. 45, P. 109-222).

Saudi requested that the District Court transfer venue of his claims against Keppel to the United States District Court for the Southern District of Texas, Brownsville Division, when proof of the possible existence

of personal jurisdiction had surfaced. In a classic misstatement of the law, the District Court, in rebuffing Saudi, stated:

> No, it is not allowing you to transfer it. You can bring an action in Brownsville, if you want, and you can argue the time it has been pending in this Court should not count against the time that you're filing it. You can make that argument if you file it in Brownsville or in New Jersey or wherever else you think you might be able to file it.

(TR. Vol. March 29, 2004, P. 64a, LL 1-7).

In refusing to transfer Saudi's case, the Trial Court ignored the clearly-established Federal Rule that venue of a case under 28 U.S.C. §1406(a) should be transferred to another District where it could have been brought where transfer will prevent the bar of limitations resulting from dismissal. Carteret Sav. Bank, FA v. Shushan, 919 F.2d 225, 228 (3rd Cir. 1990). Citing Goldlawr, Inc. v. Heiman, 369 U.S. 463, 82 S.Ct. 913, 8 L.Ed.2d 39 (1962). See also Delaware Marketing Partners, LLC v. Creditron Financial Servs., Civ. No. 04-36-SLR (Del. 2004).

REASONS FOR GRANTING THE PETITION

1. A conflict exists among the circuits as to whether an outcome determinative sanction under Rule 37 F.R.Civ.P may be imposed as a discovery sanction in the absence of proof that the terms of a specific order have been violated.

2. This Court requires violation of the terms of a specific order before a witness in a criminal case can be precluded from testifying or a party may be held in civil contempt.

3. If personal jurisdiction may exist in another district, a Federal Court must transfer venue to that district if failure to make such a transfer would bar refiling.

CONCLUSION

For the reasons stated herein, the Petition for Writ of Certiorari should be granted. The Judgment and Opinion of the United States Court of Appeals for the Fourth Circuit should be reversed and this cause remanded for a new trial.

Respectfully submitted,

Joe Alfred Izen, Jr.
5222 Spruce St.
Bellaire, Texas 77401
(713) 668-8815
(713) 668-9402 FAX

CERTIFICATE OF SERVICE

I, Joe Alfred Izen, Jr., certify that on Monday, the 27th day of March, 2006, one true and correct copy of the foregoing Petition for Writ of Certiorari was mailed to the following persons and addressed to:

Solicitor General
950 Pennsylvania Avenue, NW
Room 5614
Washington, D.C. 20530-0001
(202) 514-22178

John M. Ryan
Vandeventer Black, L.L.P.
500 World Trade Center
Norfolk, VA 23510
(757) 446-8605

William L. Stauffer
R.Grant Decker, Jr.
Miles & Stockbridge, P.C.
1751 Pinnacle Drive, Suite 500
McLean, VA 22102
(703) 903-9000

by depositing same enclosed in a post-paid, properly addressed wrapper, in an official depository maintained by the United States Postal Service and that on the same date as above, I sent to this Court the same Petition for Writ of Certiorari through the United States Postal Service, postage prepaid.

All parties required to be served have been served.

_____
Joe Alfred Izen, Jr.

Appendix A

JUDGMENT
FILED: October 26, 2005
UNITED STATES COURT OF APPEALS
for the
Fourth Circuit

No. 04-2444 CA-03-299-2

CAPTAIN SHERIFF SAUDI

Plaintiff - Appellant

v.

NORTHROP GRUMMAN CORPORATION; NEWPORT NEWS SHIPBUILDING, INCORPORATED; KEPPEL GROUP CORPORATION, d/b/a Keppel Offshore & Marine, Limited, d/b/a Keppel Shipyard (Pte), Ltd.

Defendants - Appellees

Appeal from the United States District Court for the Eastern District of Virginia at Norfolk

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In accordance with the written opinion of this Court filed this day, the Court affirms the judgment of the District Court.

A certified copy of this judgment will be provided to the District Court upon issuance of the mandate. The judgment will take effect upon issuance of the mandate.

/s/ Patricia S. Connor
CLERK

Appendix B

PUBLISHED

UNITED STATES COURT OF APPEALS

FOR THE FOURTH CIRCUIT

CAPTAIN SHERIFF SAUDI,
Plaintiff-Appellant,

v.

NORTHROP GRUMMAN CORPORATION; NEWPORT NEWS SHIPBUILDING, INCORPORATED; KEPPEL GROUP CORPORATION, d/b/a Keppel Offshore & Marine, Limited, d/b/a Keppel Shipyard (Pte), Ltd.,
Defendants-Appellees.

No. 04-2444

Appeal from the United States District Court
for the Eastern District of Virginia, at Norfolk.
Henry Coke Morgan, Jr., Senior District Judge.
(CA-03-299-2)

Argued: September 20, 2005

Decided: October 26, 2005

Before WILKINSON and WILLIAMS, Circuit Judges,
and HAMILTON, Senior Circuit Judge.

Affirmed by published opinion. Judge Wilkinson wrote the opinion, in which Judge Williams and Senior Judge Hamilton joined.

COUNSEL

ARGUED: Joe Alfred Izen, Jr., Bellaire, Texas, for Appellant. Roy Grant Decker, Jr., MILES & STOCKBRIDGE, McLean, Virginia;

John Morgan Ryan, VENDEVENTER BLACK, L.L.P., Norfolk, Virginia, for Appellees. **ON BRIEF:** William L. Stauffer, Jr., MILES & STOCKBRIDGE, McLean, Virginia, for Appellees Northrop Grumman Corporation and Newport News Shipbuilding, Incorporated; Katharina K. Brekke, VANDEVENTER BLACK, L.L.P., Norfolk, Virginia, for Appellee Keppel Group Corporation, dba Keppel Off-shore & Marine, Limited, dba Keppel Shipyard (Pte), Ltd.

OPINION

WILKINSON, Circuit Judge:

Captain Sheriff Saudi brings this admiralty action seeking recovery for a personal injury on the high seas. Saudi's suit against the Keppel Group Corporation was dismissed for lack of personal jurisdiction. His suit against Newport News Shipbuilding and Drydock Company and the Northrop Grumman Corporation proceeded to a bench trial, at the conclusion of which the district court granted judgment as a matter of law to the defendants. On appeal, Captain Saudi raises a host of jurisdictional and trial management issues.

We hold that Federal Rule of Civil Procedure 4(k)(2) cannot be used to obtain personal jurisdiction over a foreign corporation where, as here, the foreign corporation's contacts with the United States fail to establish any proper basis for specific or general jurisdiction. With respect to the various trial management issues raised by Captain Saudi, we hold that far from abusing its discretion, the district court exercised commendable restraint. Litigants who fail to comply with court scheduling and discovery orders should not expect courts of appeal to save them from the consequences of their own delinquence.

I.

On May 17, 1999, Captain Sheriff Saudi was injured when a port-side hose crane affixed to the vessel *S/T Marine Atlantic* collapsed as it was transferring him in a basket to another ship. Captain Saudi fell approximately fifty feet into the Gulf of Mexico. He claims that he suffered injuries when the crane's mechanical arm, or jib, detached from the crane and landed on him.

In this case, Captain Saudi brings suit against Keppel, Newport News Shipbuilding, and Northrop Grumman, alleging negligence, products liability, and breach of an implied warranty of merchantability.[1] In 1979, Newport News Shipbuilding constructed the *S/T Marine Atlantic* and attached the crane to the vessel. Northrop Grumman is the parent company of Newport News Shipbuilding. In 1994, Keppel, a Singapore shipyard, refurbished the *S/T Marine Atlantic* and crane in Singapore.

The district court dismissed the suit against Keppel for lack of personal jurisdiction and in a ruling from the bench also refused to transfer venue to Texas. The suit against Newport News Shipbuilding and Northrop Grumman went to trial in October 12-13, 2004. At trial, the district court excluded two of Captain Saudi's design experts after concluding that he had violated a court order limiting his use of expert witnesses. This order had been put in place as a penalty for Captain Saudi's earlier failure to provide expert witness disclosures, as required by Federal Rule of Civil Procedure 26(a)(2)(B). At trial, the district court also denied as untimely Captain Saudi's request to subpoena two adverse witnesses. At the conclusion of the trial, it granted the defendants' motion for judgment as a matter of law on partial findings pursuant to Rule 52(c).

II.

We first address Captain Saudi's claims pertaining to Keppel. The district court's determination that it lacked personal jurisdiction over Keppel is reviewed de novo, but factual findings supporting a jurisdictional decision are reviewed for clear error. *New Wellington Fin. Corp. v. Flagship Resort Dev. Corp.*, 416 F.3d 290, 294 (4th Cir. 2005). The district court's denial of Captain Saudi's motion to transfer venue is reviewed for abuse of discretion. See *Nichols v. G.D.*

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[1]Captain Saudi has been no stranger to the federal courts. He has brought various unsuccessful suits arising out of this injury in several jurisdictions. See *Saudi v. Acomarit Mars. Servs., S.A.*, 114 Fed. App. 449 (3d Cir. 2004), *cert. denied*, 125 S. Ct. 1850 (2005); *Saudi v. Ship Switzerland*, 93 Fed. App. 519 (4th Cir. 2004); *Saudi v. SIT Mar. Atl.*, 81 Fed. App. 505 (5th Cir. 2003), *cert. denied*, 124 S. Ct. 2916 (2004); *Saudi v. Valmet-Appleton, Inc.*, 219 F.R.D. 128 (E.D. Wisc. 2003).

Searle & Co., 991 F.2d 1195, 1200 (4th Cir. 1993); *Cote v. Wadel*, 796 F.2d 981, 985 (7th Cir. 1986).

A.

Captain Saudi contends that the district court erred in concluding that it lacked personal jurisdiction over Keppel. Saudi's only asserted basis for jurisdiction is Federal Rule of Civil Procedure 4(k)(2). Rule 4(k)(2) is in essence a federal long-arm statute. *United States v. Swiss Am. Bank, Ltd*, 191 F.3d 30, 40 (1st Cir. 1999). It provides:

> If the exercise of jurisdiction is consistent with the Constitution and laws of the United States, serving a summons or filing a waiver of service is also effective, with respect to claims arising under federal law, to establish personal jurisdiction over the person of any defendant who is not subject to the jurisdiction of the courts of general jurisdiction of any state.

In order to obtain jurisdiction under Rule 4(k)(2), therefore, three requirements must be met. *Base Metal Trading, Ltd. v. OJSC "Novokuznetsky Aluminum Factory"*, 283 F.3d 208, 215 (4th Cir. 2002). First, the suit must arise under federal law. Fed. R. Civ. P. 4(k)(2). Second, the defendant must not be subject to personal jurisdiction in any state. *Id; Base Metal Trading*, 283 F.3d at 215. Third, the defendant must have contacts with the United States "consistent with the Constitution and laws of the United States." Fed. R. Civ. P. 4(k)(2).

We conclude that Keppel is not subject to jurisdiction under Rule 4(k)(2) because Captain Saudi has clearly not satisfied the third part of this test. *New Wellington Fin. Corp.*, 416 F.3d at 294 (plaintiff bears the burden of proving personal jurisdiction by a preponderance of the evidence). In the context of 4(k)(2), the requirement that Keppel's contacts be "consistent with the Constitution and laws of the United States" is founded upon the Due Process Clause of the Fifth Amendment. See *Mwani v. Bin Laden*, 417 F.3d 1, 11 (D.C. C. 2005). This Clause ensures that a defendant has fair warning before it is subjected to the coercive power of a court. *See Burger King Corp. v. Rudzewicz*, 471 U.S. 462, 472 (1985) (discussing the Due

Process Clause of the Fourteenth Amendment). Thus, while Rule 4(k)(2) is designed to facilitate obtaining jurisdiction over foreign defendants, it does not operate to relax the requirement that the defendant's contacts with the forum be constitutionally sufficient.

Captain Saudi argues that Keppel is subject to both specific and general jurisdiction. A court may exercise specific jurisdiction "[w]hen the cause of action arises out of the defendant's contacts with the forum." *Base Metal Trading*, 283 F.3d at 213. General jurisdiction is available if Keppel's contacts with the United States are "`continuous and systematic." *Id.* (quoting *Helicopteros Nacionales de Colombia, S.A. v. Hall*, 466 U.S. 408, 416 (1984)).

Captain Saudi alleges jurisdictional contacts with New Jersey and Texas. Fast, he maintains that Marine Transport Lines (MTL), a New Jersey corporation, and its Chief Engineer, Richard Farman, oversaw the refurbishment of the *S/T Marine Atlantic* in Keppel's Singapore shipyard in 1994. Specifically, he contends that Mr. Farman supervised the refurbishment from New Jersey, that MTL representatives directly observed Keppel's work in Singapore, and that MTL personnel handled the payment for Keppel's services on behalf of the ship's owner. Captain Saudi also contends that Keppel and MTL were involved in a joint venture. Second, he notes that Keppel owns a subsidiary shipyard in Brownsville, Texas.

It is clear that the district court did not have specific jurisdiction over Keppel. To the extent that Keppel has purposefully availed itself of the United States with its New Jersey and Texas contacts, it is certainly not the case that "the plaintiff['s] claims arise out of those activities directed at the [United States]." *New Wellington Fin. Corp.*, 416 F.3d at 295. Captain Saudi's cause of action arises from Keppel's alleged misconduct either in Singapore or on the high seas. Captain Saudi identifies no tortious conduct by *Keppel* in New Jersey and these New Jersey contacts therefore do not "provide the basis for the suit." *Carefirst of Md., Inc. v. Carefirst Pregnancy Ctrs., Inc.*, 334 F.3d 390, 397 (4th Cir. 2003). Nor does Keppel's Texas shipyard pro-vide any foundation for specific jurisdiction. Captain Saudi has provided no evidence that this shipyard had anything to do with his injuries or the reconstruction of the *S/T Marine Atlantic*.

The district court also lacked general jurisdiction because on the record before it Keppel's contacts with the United States are not "continuous and systematic." "[The threshold level of minimum contacts sufficient to confer general jurisdiction is significantly higher than for specific jurisdiction." *ALS Scan, Inc. v. Digital Serv. Consultants, Inc.*, 293 F.3d 707, 715 (4th Cir. 2002) (internal quotation marks omitted). Captain Saudi provides virtually no evidence that Keppel maintains a continuous presence in the United States, and instead offers only isolated contacts with Texas and New Jersey. Contrary to Captain Saudi's assertions, there is nothing to suggest that Keppel and MTL were part of a joint venture. MTL hired Keppel to reconstruct the vessel, and Mn monitored Keppel's work. Surely evidence of a single, short-term contractual relationship does not rise to the level of "continuous and systematic" contact. *See Nichols*, 991 F.2d at 1200 (single contract insufficient to generate general jurisdiction, even in combination with a series of other contacts). Nor can Keppel's Texas shipyard provide the basis for general jurisdiction, because it is generally the case that the contacts of a corporate subsidiary cannot impute jurisdiction to its parent entity. *Purdue Research Found v. Sanofi-Synthelabo, S.A.*, 338 F.3d 773, 788 n.17 (7th Cir. 2003); *Dickson Mar. Inc. v. Panalpina, Inc.*, 179 F.3d 331, 338 (5th Cir. 1999); see also *Mylan Labs., Inc. v. Akzo, N. V*, 2 F.3d 56, 61-62 (4th Cir. 1993). Captain Saudi has provided no evidence of the nature of the relation-ship between Keppel and its Texas subsidiary that would justify an exception to this general rule. See *Mylan Labs.*, 2 F.3d at 61 (noting various factors, such as significant degree of control, that may rebut the general rule).[2]

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[2]Captain Saudi also contends that the district court erred in refusing to impose discovery sanctions on Keppel for failure to properly respond to interrogatories querying its jurisdictional contacts. The district court did not abuse its discretion. *Lone Star Steakhouse & Saloon, Inc. v. Alpha of Va., Inc.*, 43 F.3d 922, 929 (4th Cir. 1995). The district court deter-mined that Keppel had not made false or misleading statements, and that its answers to Saudi's interrogatories complied with Federal Rule of Civil Procedure 33. It also held that Captain Saudi had not attempted to confer with Keppel after determining that certain answers were allegedly incomplete, as required by Rule 37(a)(2)(B).

B.

Captain Saudi next challenges the district court's refusal to transfer venue to Texas pursuant to 28 U.S.C. § 1406(a) (2000). Under § 1406(a), "[t]he district court of a district in which is filed a case laying venue in the wrong division or district shall dismiss, or if it be in the interest of justice, transfer such a case to any district or division in which it could have been brought." Section 1406(a) has been construed to permit transfers where personal jurisdiction is lacking in the transferor court, but would be available in an alternative forum. *See In re Carefirst of Maryland, Inc.*, 305 F.3d 253, 255-56 (4th Cir. 2002). According to Saudi, a transfer was warranted here because Keppel may be subject to personal jurisdiction in Texas and the statute of limitations would expire if this case were dismissed and he were forced to refile.

We find this contention unpersuasive, because Captain Saudi has never shown that suit against Keppel "could have been brought" in Texas. 28 U.S.C. § 1406(a); *see also City of Va. Beach v. Roanoke River Basin Ass'n*, 776 F.2d 484, 489 (4th Cir. 1985) ("Transfer, of course, can be made only to a district where the action could have been brought."). As we concluded above, on the record before us Keppel's contacts with Texas and the United States as a whole are constitutionally insufficient to serve as the basis for either specific or general jurisdiction. Captain Saudi cites no authority for the proposition that a suit must be transferred upon a mere assertion of potential jurisdiction that has been foreclosed by the record before the transferor court. Captain Saudi also never filed a motion to transfer and only raised the issue at a hearing, after the district court determined that it lacked Rule 4(k)(2) jurisdiction over Keppel. We have recognized that "the interest of justice" standard provides district courts with broad discretion in denying a request for a transfer. *See, e.g., Nichols*, 991 F.2d at 1200-01 (wide discretion to deny transfer where attorney "could reasonably have foreseen" that he filed suit in an improper forum). The district court did not abuse its discretion here.

III.

We next address Captain Saudi's claims relating to Newport News Shipbuilding and Northrop Grumman. The district court's decision to

exclude two of Captain Saudi's expert witnesses is reviewed for abuse of discretion. *S. States Rack & Fixture, Inc. v. Sherwin-Williams Co.*, 318 F.3d 592, 595 (4th Cir. 2003). Its denial of Captain Saudi's request to subpoena adverse witnesses is also reviewed under this same standard. *See Adkins v. Kaspar*, 393 F.3d 559, 571 (5th Cir. 2004).

It must be noted at the outset that Captain Saudi's actions in this litigation presented particular challenges for the district court. The record is replete with instances when Captain Saudi failed to abide by the district court's rules, including missing deadlines, filing briefs on the day of hearings, and seeking the assistance of counsel while claiming to be proceeding pro se. Our consideration of the district court's various decisions is guided by the necessary deference owed to district courts in the context of trial management, and by our view that the district court was exceedingly patient in this trying situation.

A.

Captain Saudi contends that the district court erred in excluding at trial two of his expert witnesses, George Moran and Lee Wyman. Consideration of this claim requires a fuller exposition of the course of litigation in this case. Captain Saudi provided a Designation of Expert Witnesses on June 10, 2004, listing thirty names. He did not, however, timely file Rule 26(a)(2)(B) expert witness disclosures, as required by the district court's Scheduling Order. Rule 26(a)(2)(B) reports include, among other things, the expert's opinions and basis therefor, his qualifications, and any past experience as an expert witness. In an August 5 order, the district court determined that as a sanction for failing to timely file Rule 26 disclosures, Captain Saudi "shall identify no more than three (3) expert witnesses" in the field of defective design. It also granted him an additional week to provide the Rule 26 expert witness reports. Two of the experts Saudi eventually selected, Moran and Wyman, were not among the original thirty experts he had listed in his June 10 Designation of Expert Witnesses.

At the October trial, the defendants asked that Moran and Wyman be struck because Captain Saudi had violated the district court's order by selecting two experts from outside the original thirty in the Designation. By this time, the defendants had received the Rule 26 disclo-

sures for Moran and Wyman and had deposed both of them. The district court ageed with the defendants that the two experts should be excluded. It reasoned that it could have struck all of Captain Saudi's experts as a sanction for his failure to timely file Rule 26 reports, but had instead decided to It him to three experts and grant him additional time. By selecting two experts not among the thirty included in the Designation, Captain Saudi had violated the court's order.

Captain Saudi contends that this was an abuse of discretion. He argues that when the district court limited him to three design experts, it did not also require that he select those experts from among the thirty listed in the original Designation. Specifically, he notes that the defendants raised this issue at a pretrial conference and the district court declined to decide the issue at that time. He also points to statements that the district court made at this pretrial conference and at trial that together suggest the court was uncertain whether Saudi was in fact limited to the thirty experts in his Designation.

Rule 37(c)(1) provides that "[a] party that without substantial justification fails to disclose information required by Rule 26(a)... is not, unless such failure is harmless, permitted to use as evidence at trial... any witness or information not so disclosed." A district court may also impose "other appropriate sanctions." *Id.* Rule 26 disclosures are often the centerpiece of discovery in litigation that uses expert witnesses. A party that fails to provide these disclosures unfairly inhibits its opponent's ability to properly prepare, unnecessarily prolongs litigation, and undermines the district court's management of the case. For this reason, "[w]e give particularly wide latitude to the district court's discretion to issue sanctions under Rule 37(c)(1)." *S. States Rack & Fixture*, 318 F.3d at 595 (internal quotation marks omitted).

This latitude is particularly appropriate here. The district court concluded that Captain Saudi had violated its August 5 order by selecting two witnesses not among the original thirty, and a district court's interpretation of its own order is entitled to deference. *Anderson v. Stephens*, 875 F.2d 76, 80 n.8 (4th Cir. 1989). To the extent the order is ambiguous, an examination of the record indicates that the district court intended to limit Captain Saudi to his initial Designation. *See In re Tomlin*, 105 F.3d 933, 940 (4th Cir. 1997) ("When an order is ambiguous, a court must construe its meaning, and in so doing may

resort to the record upon which the judgment was based.") (internal quotation marks omitted). By limiting him to three expert witnesses only, the district court was attempting to cabin Captain Saudi's use of witnesses and place reasonable limits on this freewheeling litigation. Allowing Saudi to select from outside of the initial list would have achieved precisely the opposite result.

We hasten to add that as the district court recognized, it could have struck at the outset all of Captain Saudi's expert witnesses as a sanction for his failure to timely file Rule 26 disclosures. This was the course pursued by the district courts in Captain Saudi's Wisconsin and Texas suits, when Captain Saudi similarly did not comply with Rule 26. *See Saudi v. Valmet-Appleton, Inc.*, 219 F.R.D. 128, 134 (E.D. Wisc. 2003); *Saudi v. S/T Mar. Atl.*, 2000 WL 33993435 *4 (S.D. Tex. 2000). In this case, the district court generously granted Saudi additional time to file disclosures on three design experts. Saudi's current contention - that the district court order limiting him to three expert witnesses did not require him to select those witnesses from his original Designation - is only an issue because Captain Saudi failed to file Rule 26 disclosures and received initially a lenient response. The district court should not be a victim of its own lenity, nor should Captain Saudi capitalize on his noncompliance with the court's rules.

B.

Captain Saudi lastly argues that the district court abused its discretion by denying as untimely his request to subpoena adverse witnesses. Captain Saudi sought these subpoenas during the trial, seeking to have the witnesses appear the next day. This was in clear violation of a local rule that requires service of subpoenas no less than fourteen days before trial. *See* E.D. Va. Local Civ. R. 45(E). The district court had also previously imposed limits on Captain Saudi's ability to obtain subpoenas after determining that he had used subpoenas to harrass defendants' corporate officers. In light of these facts, the district court did not abuse its discretion.

IV.

For the foregoing reasons, the judgment of the district court is

AFFIRMED.

Appendix C

U.S. District Court
Eastern District of Virginia (Norfolk)
CIVIL DOCKET FOR CASE #: 2:03-cv-00299-HCM-TEM

Saudi v. Northrop Grumman, et al
Assigned to: District Judge Henry C. Morgan, Jr
Referred to: Magistrate Judge Tommy E. Miller
Demand: $12,000
Case in other court: USDC-DC, 02cv00972
Cause: 28:1333 Admiralty

Date Filed: 04/18/2003
Jury Demand: Plaintiff
Nature of Suit: 340 Marine
Jurisdiction: Federal Question

Plaintiff

Sheriff Saudi	represented by	**Sheriff Saudi** 5222 Spruce Street Bellaire, TX 77401 PRO SE

Defendant

Northrop Grumman Corporation	represented by	**Roy Grant Decker, Jr.** Miles & Stockbridge PC 1751 Pinnacle Dr Suite 500 McLean, VA 22102-3833 (703) 903-9000 *LEAD ATTORNEY* *ATTORNEY TO BE NOTICED*

William Lewis Stauffer, Jr.
Miles & Stockbridge PC
1751 Pinnacle Dr
Suite 500
McLean, VA 22102-3833
(703) 903-9000
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Defendant

Newport News Shipbuilding, Inc.	represented by	**Roy Grant Decker, Jr.** (See above for address) *LEAD ATTORNEY* *ATTORNEY TO BE NOTICED*
		William Lewis Stauffer, Jr. (See above for address) *LEAD ATTORNEY* *ATTORNEY TO BE NOTICED*

Defendant

Keppel Group Corp. *TERMINATED:*	represented by	**Edward James Powers**

04/06/2004
doing business as
Keppel Offshore &
Marine, Ltd.
doing business as
Keppel Shipyard
(Pte), Ltd.

Vandeventer Black
LLP
500 World Trade Ctr
Norfolk, VA 23510
(757) 446-8600
TERMINATED:
04/06/2004
LEAD ATTORNEY
ATTORNEY TO BE
NOTICED

John Morgan Ryan
Vandeventer Black
LLP
500 World Trade Ctr
Norfolk, VA 23510
(757) 446-8600
TERMINATED:
04/06/2004
LEAD ATTORNEY
ATTORNEY TO BE
NOTICED

Date Filed	#	Docket Text
04/18/2003	1	Original file, certified copy of transfer order and docket sheet received from District of Columbia. See case file for documents No. 1-12 filed in Washington, DC. (vwar) (Entered: 04/21/2003)
04/18/2003	2	Roseboro Notice by Northrop Grumman, Newport News Ship (originally filed in USDC -

		Washington on 4/2/03) (vwar) (Entered: 04/21/2003)
04/18/2003	3	MOTION by Newport News Ship, Northrop Grumman to Dismiss for Failure to State a Claim (originally filed in USDC-Washington on 4/2/03) (vwar) (Entered: 04/21/2003)
04/18/2003	4	MEMORANDUM by Northrop Grumman, Newport News Ship in support of [3-1] motion to Dismiss for Failure to State a Claim, received (originally received in USDC-Washington on 4/2/03) (vwar) (Entered: 04/21/2003)
04/18/2003		CASE REFERRED to Magistrate Judge Tommy E. Miller (vwar) (Entered: 04/21/2003)
04/29/2003	5	Response by Sheriff Saudi to [3-1] motion by Newport News Ship, Northrop Grumman to Dismiss for Failure to State a Claim, received. (vwar) (Entered: 04/29/2003)
04/29/2003	5	MOTION by Sheriff Saudi to Stay Proceedings in the USDC for the Eastern District of Virginia Pending Further Proceedings in the USDC for the District of Columbia (with proposed Order attached) (vwar) Modified on 04/29/2003 (Entered: 04/29/2003)
04/29/2003		Deadline updated; Response to

		Motion reset to 5/13/03 for [5-1] motion by Sheriff Saudi to Stay Proceedings in the USDC for the Eastern District of Virginia Pending Further Proceedings in the USDC for the District of Columbia (with proposed Order attached), reset to 5/13/03 for [3-1] motion by Newport News Ship, Northrop Grumman to Dismiss for Failure to State a Claim (vwar) (Entered: 04/29/2003)
05/02/2003	6	Response by Sheriff Saudi to [3-1] motion by Newport News Ship, Northrop Grumman to Dismiss for Failure to State a Claim (Filed in District of Columbia court on 4/16/03) (vwar) (Entered: 05/05/2003)
05/02/2003	7	MOTION by Sheriff Saudi for Permission to Certify Transfer Order as Order Qualifying for Immediate Appeal , and by Sheriff Saudi for Entry of Stay of Transfer (vwar) (Entered: 05/05/2003)
05/06/2003	8	STATUS REPORT by Sheriff Saudi Re: Service on Defendant Keppel Group Corp. (vwar) (Entered: 05/07/2003)
05/06/2003	8	MOTION by Sheriff Saudi to Extend Time to Serve Foreign Defendant Keppel Group Corporation with Complaint (vwar) (Entered: 05/07/2003)

05/07/2003	9	MEMORANDUM by Northrop Grumman, Newport News Ship in opposition to [5-1] motion by Sheriff Saudi to Stay Proceedings in the USDC for the Eastern District of Virginia Pending Further Proceedings in the USDC for the District of Columbia (with proposed Order attached) by Sheriff Saudi, [5-1] by Sheriff Saudi, received. (vwar) (Entered: 05/07/2003)
05/08/2003	10	ORDER granting [8-1] motion by Sheriff Saudi to Extend Time to Serve Foreign Defendant Keppel Group Corporation with Complaint, plaintiff must serve complaint on defendant Keppel within 60 days from the date of this order, set Respond Deadline 7/7/03 , entered and filed 5/8/03 (signed by Judge Henry C. Morgan Jr.) Copies Mailed: 5/8/03 [EOD Date: 5/9/03] (vwar) (Entered: 05/09/2003)
05/16/2003		SUMMONS, with one copy, issued for Keppel Group Corp., with Mag. notice and financial disclosure, and mailed to pro se plaintiff. (vwar) (Entered: 05/16/2003)
06/02/2003	11	SUMMONS Returned Executed as to Keppel Group Corp. 5/27/03, served by Registered Mail by pro se plaintiff. (vwar) (Entered: 06/02/2003)
06/26/2003	12	Roseboro Notice by Keppel Group

		Corp. (vwar) (Entered: 06/27/2003)
06/26/2003	13	MOTION by Keppel Group Corp. to Dismiss (vwar) (Entered: 06/27/2003)
06/26/2003	14	MEMORANDUM by Keppel Group Corp. in support of [13-1] motion to Dismiss, received. (vwar) (Entered: 06/27/2003)
06/26/2003	15	Financial Interest Disclosure Statement (Local Rule 7.1) by Keppel Group Corp. (vwar) (Entered: 06/27/2003)
06/27/2003		Deadline updated; Response to Motion reset to 7/21/03 for [13-1] motion by Keppel Group Corp. to Dismiss (vwar) (Entered: 06/27/2003)
06/27/2003	16	Amended Financial Interest Disclosure Statement (Local Rule 7.1) by Keppel Group Corp. (vwar) (Entered: 06/27/2003)
07/07/2003	17	AFFIDAVIT of Kenneth Chong Yun Kien Re: [14-1] support memorandum by Keppel Group Corp. (vwar) (Entered: 07/08/2003)
07/07/2003	18	AFFIDAVIT of Jeffery S. Chow Re: [14-1] support memorandum by Keppel Group Corp. (vwar) (Entered: 07/08/2003)
07/08/2003	19	Plaintiff's Proof of Service on Foreign Defendant, Keppel Group

		Corporation (vwar) (Entered: 07/08/2003)
07/22/2003	20	MOTION by Sheriff Saudi to Extend Time within which to respond to defendant Keppel Shipyards' Motion to Dismiss (Filed subject to defect -- all attorneys not included on certificate of service) (vwar) Modified on 07/22/2003 (Entered: 07/22/2003)
08/07/2003	21	ORDER denying [20-1] motion by Sheriff Saudi to Extend Time within which to respond to defendant Keppel Shipyards' Motion to Dismiss, plaintiff can request a hearing on defendant's motion within 10 days from the date of this order, set Respond Deadline 8/21/03 , entered and filed 8/7/03 (signed by Judge Henry C. Morgan Jr.) Copies Mailed: 8/7/03 [EOD Date: 8/7/03] (vwar) (Entered: 08/07/2003)
08/18/2003		Motion hearing for Northrop Grumman, Newport News Ship, Keppel Group Corp. [13-1] motion by Keppel Group Corp. to Dismiss set at 11:00 8/27/03, [3-1] motion by Newport News Ship, Northrop Grumman to Dismiss for Failure to State a Claim set at 11:00 8/27/03 before Judge Henry C. Morgan Jr. (vwar) (Entered: 08/18/2003)
08/19/2003	22	NOTICE of Hearing: Scheduled for

		8/27/03 at 11:00 before Judge Morgan on defendant's Keppel's Motion to Dismiss (vwar) (Entered: 08/19/2003)
08/27/2003		Motion hearing held re: [20-1] motion by Sheriff Saudi to Extend Time within which to respond to defendant Keppel Shipyards' Motion to Dismiss by Sheriff Saudi, [8-1] motion by Sheriff Saudi to Extend Time to Serve Foreign Defendant Keppel Group Corporation with Complaint by Sheriff Saudi (vwar) (Entered: 09/02/2003)
08/27/2003		Motion hearing held re: [13-1] motion by Keppel Group Corp. to Dismiss by Keppel Group Corp., [3-1] motion by Newport News Ship, Northrop Grumman to Dismiss for Failure to State a Claim by Newport News Ship, Northrop Grumman (danc) (Entered: 09/08/2003)
08/27/2003	25	Minute entry: COURT PROCEEDINGS: HCM, Jr., j; Diane Gray, OCR. Ptf. app. pro se. W. Stauffer, Jr. app. on behalf of dfts. Northrop Grumman & Newport News Shipbuilding & J. Ryan app. on behalf of dft. Keppel Group. Came on for hrg. on dfts. Northrop & Newport News Ship's motion to dismiss for failure to state a claim (#3) & dft. Keppel's motion

		to dismiss (#13); argued. Court takes motions under advisement. Court grants ptf. 11 days from today within which to comply with affidvit requirement of Rules of Service under Rule 4. If affidavit is filed, court grants ptf. 11 days thereafter to file not more than 5 interrogatories limited to issue of whether dft. Keppel conducts continuous & systematic business in USA & Keppel shall have 30 days to respond. Court kept file & will prepare order. (danc) (Entered: 09/08/2003)
08/28/2003	23	ORDER granting plaintiff 11 days from the date of this order to comply with the affidavit requirement in Rule 4(1), set Respond Deadline 9/8/03 , and granting plaintiff 11 days past the time of filing an affidavit to serve 5 interrogatories on defendant Keppel; defendant Keppel will have 30 days to respond to plaintiff's interrogatories, entered and filed 8/28/03 (signed by Judge Henry C. Morgan Jr.) Copies Mailed: 8/28/03 [EOD Date: 8/28/03] (vwar) (Entered: 08/28/2003)
08/28/2003		Motion hearing held re: certain discovery issues (see order for specifics) (vwar) (Entered: 08/28/2003)

09/05/2003	24	AFFIDAVIT by Sheriff Saudi Re: Service (vwar) (Entered: 09/05/2003)
09/15/2003	26	ORDER denying [3-1] motion by Newport News Ship, Northrop Grumman to Dismiss for Failure to State a Claim; entered 09/12/03 and filed 09/15/03 (signed by Judge Henry C. Morgan Jr.) Copies Mailed: 09/15/03 [EOD Date: 9/15/03] (cdod) Modified on 09/15/2003 (Entered: 09/15/2003)
09/16/2003	27	NOTICE of Filing Interrogatories in Aid of Jurisdictional Discovery Pursuant to Court Order by Sheriff Saudi (vwar) (Entered: 09/16/2003)
09/30/2003	28	OBJECTION by defendant Keppel Group Corp. to [27-1] notice by Sheriff Saudi (vwar) (Entered: 10/20/2003)
10/01/2003	29	ANSWER to Complaint by Northrop Grumman, Newport News Ship (Attorney Roy Grant Decker Jr.), (vwar) Modified on 10/20/2003 (Entered: 10/01/2003)
10/24/2003	30	ORDER denying [13-1] motion by Keppel Group Corp. to Dismiss and ruling on certain discovery matters (see order for specifics), entered and filed 10/24/03 (signed by Judge Henry C. Morgan Jr.) Copies Mailed: 10/24/03 [EOD Date: 10/24/03] (vwar) (Entered:

		10/24/2003)
12/09/2003	31	ORDER granting Keppel Shipyard a 30 day extension to respond to plaintiff's jurisdictional interrogatories; set Respond Deadline 12/23/03 ; entered and filed 12/9/03 (signed by Judge Henry C. Morgan Jr.) Copies Mailed: 12/10/03 [EOD Date: 12/10/03] (vwar) (Entered: 12/10/2003)
01/05/2004	32	ORDER extending the time for Keppel Shipyard to serve answers to interrogatories upon plaintiff up to and including 1/23/04; set Respond Deadline 1/23/04 ; entered and filed 1/5/04 (signed by Judge Henry C. Morgan Jr.) Copies Mailed: 1/5/04 [EOD Date: 1/6/04] (vwar) (Entered: 01/06/2004)
01/29/2004		Motion hearing for Keppel Group Corp. [13-1] motion by Keppel Group Corp. to Dismiss set at 10:00 3/4/04 before Judge Henry C. Morgan Jr. (vwar) (Entered: 01/29/2004)
02/04/2004	33	ORDER denying [7-1] motion by Sheriff Saudi for Permission to Certify Transfer Order as Order Qualifying for Immediate Appeal, denying [7-2] motion by Sheriff Saudi for Entry of Stay of Transfer, denying [5-1] motion by Sheriff Saudi to Stay Proceedings in the

		USDC for the Eastern District of Virginia Pending Further Proceedings in the USDC for the District of Columbia; entered and filed 2/4/04 (signed by Judge Henry C. Morgan Jr.) Copies Mailed: 2/4/04 [EOD Date: 2/4/04] (vwar) (Entered: 02/04/2004)
03/01/2004	34	MOTION by Sheriff Saudi for Sanctions for Failure to Answer Interrogatories Compelled by the Court Pursuant to Federal Rules of Civil Procedure Rule 37 or for Alternative Relief (vwar) (Entered: 03/01/2004)
03/04/2004	35	RESPONSE by Sheriff Saudi to [13-1] motion by Keppel Group Corp. to Dismiss, received. (vwar) (Entered: 03/04/2004)
03/04/2004	35	AFFIDAVIT by Sheriff Saudi Re: [35-1] motion response by Sheriff Saudi (vwar) (Entered: 03/04/2004)
03/04/2004		Motion hearing held re: [13-1] motion by Keppel Group Corp. to Dismiss by Keppel Group Corp. (danc) (Entered: 03/05/2004)
03/04/2004	36	Minute entry: COURT PROCEEDINGS: HCM, Jr, j; Jody Stewart, OCR. Ptf. app. pro se. W. Stauffer, Jr. app. on behalf of dfts., Northrop Grumman Corporation & Newport News Shipbuilding, Inc. J. Ryan app. on behalf of dft. Keppel

		Group Corp. Came on for hrg. on dft. Keppel's motion to dismiss (#13); argued. Ptf. sworn. Comments of Court, ptf. & cnsl. Dft. Keppel shall respond to ptf's. motion for sanctions or motion to compel by March 15, 2004. Court will accept affidavit, etc., via fax, provided hard copy follows to be filed. All parties shall meet & confer & set furt. hrg. on Keppel's motion to dismiss within 30 days, at which hrg. all parties shall present any documents or other evidence available After close of court, motion hrg. set March 29, 2004, at 2:30 PM. (danc) (Entered: 03/05/2004)
03/05/2004		Motion hearing for Keppel Group Corp. [13-1] motion by Keppel Group Corp. to Dismiss set at 2:30 3/29/04 before Judge Henry C. Morgan Jr. (vwar) (Entered: 03/08/2004)
03/10/2004	37	TRANSCRIPT OF PROCEEDINGS for dates of 3/4/04, before USDJ Morgan, Jody A. Stewart, OCR (vwar) (Entered: 03/11/2004)
03/12/2004	38	MEMORANDUM by Keppel Group Corp. in opposition to [34-1] motion by Sheriff Saudi for Sanctions for Failure to Answer Interrogatories Compelled by the

		Court Pursuant to Federal Rules of Civil Procedure Rule 37 or for Alternative Relief, received. (vwar) (Entered: 03/15/2004)
03/15/2004	39	AFFIDAVIT of Jeffery Chow Re: [38-1] opposition memorandum by Keppel Group Corp. (vwar) (Entered: 03/15/2004)
03/29/2004	40	REPLY by Sheriff Saudi to response to [34-1] motion by Sheriff Saudi for Sanctions for Failure to Answer Interrogatories Compelled by the Court Pursuant to Federal Rules of Civil Procedure Rule 37 or for Alternative Relief, received (Late Reply) (vwar) (Entered: 03/29/2004)
03/29/2004		Motion hearing held re: [34-1] motion by Sheriff Saudi for Sanctions for Failure to Answer Interrogatories Compelled by the Court Pursuant to Federal Rules of Civil Procedure Rule 37 or for Alternative Relief by Sheriff Saudi, [13-1] motion by Keppel Group Corp. to Dismiss by Keppel Group Corp. (danc) (Entered: 03/31/2004)
03/29/2004	41	Minute entry: COURT PROCEEDINGS: HCM, Jr, j; Jody Stewart, OCR. Ptf. app. pro se. W. Stauffer, Jr. app. on behalf of Northrop Grumman & Newport News Shipbuilding & J. Ryan app. on behalf of Keppel Group. Came

		on for hrg. on pending motions. Court ruled that ptf. is not to have pro se status in this case. Ptf's. motion for sanctions, etc. (#34); argued; DENIED. Dft. Keppel Group's motion to dismiss for lack of jurisdiction (#13); argued; GRANTED. Court will not consider brief submitted by ptf. to Clerk's Office less than one-half hr. ago. Court's rulings & findings read into record. Court directed that R.16(b) Scheduling Conf. be held immediately with remaining parties. Court will prepare order which will be Judgment. (danc) (Entered: 03/31/2004)
04/01/2004	42	TRANSCRIPT OF PROCEEDINGS for dates of 3/29/04, before USDJ Morgan, Jody A. Stewart, OCR (vwar) (Entered: 04/01/2004)
04/06/2004	43	Rule 16(b) Scheduling Order: Trial set for 10:00 a.m. on 10/12/04 in Norfolk. Trial by jury has been demanded. Discovery by plaintiff(s) due on or before 8/3/04 and by defendant(s) on or before 8/31/04; final pretrial conference shall be held at 9/24/04 at 12:00 noon; trial by jury has been demanded; proposed voir dire and typewritten jury instructions, with authorities in support thereof, shall be delivered to the Clerk on or before 10/5/04;

		entered 3/29/04; filed 4/6/04; (Signed by Judge Henry C. Morgan Jr.) Copies Mailed: 4/6/04 (lbax) (Entered: 04/06/2004)
04/06/2004	44	ORDER denying [34-1] motion by Sheriff Saudi for Sanctions for Failure to Answer Interrogatories Compelled by the Court Pursuant to Federal Rules of Civil Procedure Rule 37 or for Alternative Relief, ordering that plaintiff will no longer be accorded deference as a pro se litigant; directing that plaintiff will be treated in same manner as a party represented by counsel; granting defendant Keppel's motion to dismiss for lack of personal jurisdiction; entered and filed 4/6/04 (signed by Judge Henry C. Morgan Jr.) Copies Mailed: 4/6/04 [EOD Date: 4/7/04] (vwar) (Entered: 04/07/2004)
04/06/2004	45	JUDGMENT on decision by the court that Keppel Group Corporation's Motion to Dismiss is GRANTED; and Keppel Group Corporation is DISMISSED from this case, entered by the Clerk and filed 4/6/04, o.b., Copies Mailed: 4/6/04 [EOD DATE: 4/7/04] (vwar) (Entered: 04/07/2004)
04/16/2004	46	MOTION by Sheriff Saudi for Rehearing , or by Sheriff Saudi for New Trial (vwar) (Entered:

		04/16/2004)
04/16/2004		Deadline updated; Response to Motion reset to 4/30/04 for [46-1] motion by Sheriff Saudi for Rehearing, reset to 4/30/04 for [46-2] motion by Sheriff Saudi for New Trial (vwar) (Entered: 04/16/2004)
04/21/2004	47	MOTION by Northrop Grumman for Summary Judgment (vwar) (Entered: 04/22/2004)
04/21/2004	48	MEMORANDUM in support of by Northrop Grumman, Newport News Ship [47-1] motion for Summary Judgment, received. (vwar) (Entered: 04/22/2004)
04/21/2004	48	AFFIDAVIT of Kathleen M. Salmas Re: [48-1] support memorandum by Newport News Ship, Northrop Grumman (vwar) (Entered: 04/22/2004)
04/21/2004	49	Material Facts Not in Dispute filed by defendant Northrop Grumman, defendant Newport News Ship [48-1] support memorandum (vwar) (Entered: 04/22/2004)
04/21/2004		Deadline updated; Response to Motion reset to 5/5/04 for [47-1] motion by Northrop Grumman for Summary Judgment (vwar) (Entered: 04/22/2004)
04/23/2004	50	RESPONSE by Keppel Group Corp. to [46-1] motion by Sheriff

		Saudi for Rehearing, received. (vwar) (Entered: 04/26/2004)
05/05/2004	51	MOTION with Memorandum in Support by Sheriff Saudi by Sheriff Saudi to Continue Hearing on Grumman Defendants' Motion for Summary Judgment until Completion of Discovery (vwar) (Entered: 05/05/2004)
05/05/2004	51	AFFIDAVIT by Sheriff Saudi Re: [51-1] motion to Continue Hearing on Grumman Defendants' Motion for Summary Judgment until Completion of Discovery (vwar) (Entered: 05/05/2004)
05/12/2004	52	MEMORANDUM by Northrop Grumman, Newport News Ship in opposition to [51-1] motion by Sheriff Saudi to Continue Hearing on Grumman Defendants' Motion for Summary Judgment until Completion of Discovery and for Entry of Summary Judgment, received. (vwar) Modified on 05/13/2004 (Entered: 05/13/2004)
05/19/2004		Motion hearing for Sheriff Saudi, Northrop Grumman, Newport News Ship [47-1] motion by Northrop Grumman for Summary Judgment set at 11:00 6/14/04, [46-1] motion by Sheriff Saudi for Rehearing set at 11:00 6/14/04, [46-2] motion by Sheriff Saudi for New Trial set at 11:00 6/14/04 before Judge Henry

		C. Morgan Jr. (vwar) (Entered: 05/20/2004)
05/21/2004	53	NOTICE of Hearing by Northrop Grumman, Newport News Ship, for hearing scheduled for 6/14/04 at 11:00 a.m. before Judge Morgan on defendant's Motion for Summary Judgment. (vwar) (Entered: 05/24/2004)
05/25/2004	54	MOTION by Sheriff Saudi to Extend Time to File Answers to Defendants' First Set of Interrogatories and Responses to Request for Production of Documents (vwar) (Entered: 05/25/2004)
06/07/2004	55	MOTION with Memorandum in Support by Sheriff Saudi by Sheriff Saudi for Leave to Amend Pursuant to Rule 15(c) of the Federal Rules of Civil Procedure (vwar) (Entered: 06/08/2004)
06/07/2004	56	MOTION with Memorandum in Support by Sheriff Saudi by Sheriff Saudi for Relief from Rule 16(b) Scheduling Order (vwar) (Entered: 06/08/2004)
06/14/2004	57	REPLY by Sheriff Saudi to response to [56-1] motion for Relief from Rule 16(b) Scheduling Order, received. (vwar) (Entered: 06/14/2004)

06/14/2004	58	MEMORANDUM by Northrop Grumman, Newport News Ship in opposition to [56-1] motion by Sheriff Saudi for Relief from Rule 16(b) Scheduling Order, received. (vwar) (Entered: 06/14/2004)
06/14/2004		Motion hearing held re: [47-1] motion by Northrop Grumman for Summary Judgment by Northrop Grumman, [46-1] motion by Sheriff Saudi for Rehearing by Sheriff Saudi, [46-2] motion by Sheriff Saudi for New Trial by Sheriff Saudi (danc) (Entered: 06/15/2004)
06/14/2004	59	Minute entry: COURT PROCEEDINGS: HCM, Jr, j; Jody Stewart, OCR. Ptf. app. pro se. W. Stauffer, Jr., app. on behalf of dfts. Northrop Grumman Corp. & Newport News Ship. J. Ryan app. on behalf of dft. Keppel Group. Came on for hrg. on pending motions; argued. Ptf's. motion for Rehearing or New Trial (#46); DENIED. Dfts. Northrop Grumman & Newport News Ship's Motion for Summary Judgment (#47); DENIED. Court directs all parties to present within 15 days of today motions, which mahy be accompanied by affidavits or documents, as to whether or not the Court should treat ptf. as pro se party, & as to corporate structure or successors. Court dir. ptf. to file

		pleadings or documents in a timely manner in order that same may be reviewed prior to hrgs. Ptf. shall not file any pleadings, etc., immediately prior to any hrg. Court to prepare order. (danc) (Entered: 06/15/2004)
06/18/2004	60	MEMORANDUM by Northrop Grumman, Newport News Ship in opposition to [55-1] motion by Sheriff Saudi for Leave to Amend Pursuant to Rule 15(c) of the Federal Rules of Civil Procedure, received. (vwar) (Entered: 06/18/2004)
06/21/2004	61	MOTION by Sheriff Saudi to Compel F.R.Civ. P. Rule 26(a) Disclosures (vwar) (Entered: 06/22/2004)
06/21/2004	62	MEMORANDUM by Sheriff Saudi in support of [61-1] motion to Compel F.R.Civ. P. Rule 26(a) Disclosures, received. (vwar) (Entered: 06/22/2004)
06/21/2004	63	REPLY by Sheriff Saudi to response to [56-1] motion for Relief from Rule 16(b) Scheduling Order, received. (vwar) (Entered: 06/22/2004)
06/22/2004	64	ORDER denying [51-1] motion by Sheriff Saudi to Continue Hearing on Grumman Defendants' Motion for Summary Judgment until Completion of Discovery, [47-1]

		motion by Northrop Grumman for Summary Judgment under advisement, denying [46-1] motion by Sheriff Saudi for Rehearing, entered and filed 6/22/04 (signed by Judge Henry C. Morgan Jr.) Copies Mailed: 6/22/04 [EOD Date: 6/23/04] (vwar) (Entered: 06/23/2004)
06/25/2004	65	REPLY by Sheriff Saudi to response to [55-1] motion for Leave to Amend Pursuant to Rule 15(c) of the Federal Rules of Civil Procedure, received. (vwar) (Entered: 06/28/2004)
06/28/2004	66	Document(s) filed by plaintiff Sheriff Saudi Requesting issuance of subpoenas (vwar) (Entered: 06/28/2004)
07/02/2004	67	MEMORANDUM by Northrop Grumman, Newport News Ship in opposition to [61-1] motion by Sheriff Saudi to Compel F.R.Civ. P. Rule 26(a) Disclosures, received. (vwar) (Entered: 07/02/2004)
07/12/2004	68	REPLY by Sheriff Saudi to response to [61-1] motion by Sheriff Saudi to Compel F.R.Civ. P. Rule 26(a) Disclosures, received. (vwar) (Entered: 07/12/2004)
07/12/2004		Motion hearing for Sheriff Saudi before Judge Henry C. Morgan Jr. (vwar) (Entered: 07/12/2004)

07/12/2004		Hearing Deadline as to Sheriff Saudi set 2:30 7/14/04 before Judge Henry C. Morgan Jr. (vwar) (Entered: 07/12/2004)
07/12/2004	69	OBJECTION by Northrop Grumman, Newport News Ship to Plaintiff's Request for Issuance of Schievelbein and Leukhardt Subpoenas (vwar) (Entered: 07/14/2004)
07/14/2004		Motion hearing held re: Dfts.' objection to ptf's. request for issuance of Schievelbein & Leukhardt subpoenas (#69). (danc) (Entered: 07/16/2004)
07/14/2004	70	Minute entry: COURT PROCEEDINGS: HCM, Jr, j; Jody Stewart, OCR. Ptf. app. pro se. W. Stauffer, Jr. app. on behalf of dfts., Northrop Grumman & Newport News Shipbuilding. Came on for hrg. on dfts.' objection to ptf's. request for issuance of Schievelbein & Leukhardt subpoenas (#69); argued; GRANTED. Court ordered that ptf. receive permission of the court to obtain subpoenas as pro se, but that court's permission is not needed to file notice of deposition under FRCvP, etc. Court's rulings read into the record. (danc) (Entered: 07/16/2004)
07/20/2004	71	ORDER sustaining defendant's objections and quashing the

		subpoenas previously issued to Schievelbein, Leukhardt and Mullan, ordering plaintiff to comply with Local Civil Rule 45(A), entered 7/19/04, filed 7/20/04 (signed by Judge Henry C. Morgan Jr.) Copies Mailed: 7/20/04 [EOD Date: 7/20/04] (vwar) (Entered: 07/20/2004)
07/22/2004	72	TRANSCRIPT OF PROCEEDINGS for dates of 7/14/04 before USDJ Morgan, Jody A. Stewart, OCR (vwar) (Entered: 07/22/2004)
07/28/2004	73	MOTION by Sheriff Saudi to Extend Time Within Which to Complete Rule 26(a)(2)(B) Expert Witness Disclosures (vwar) (Entered: 07/28/2004)
07/28/2004	73	AFFIDAVIT by Sheriff Saudi Re: [73-1] motion by Sheriff Saudi to Extend Time Within Which to Complete Rule 26(a)(2)(B) Expert Witness Disclosures (vwar) (Entered: 07/28/2004)
07/28/2004	74	MOTION by Sheriff Saudi to Compel Rule 26(a)(B) and (D) Disclosures and Proper Answers and Responses to Plaintiff's First Set of Written Interrogatories and First Requests for Production and for Entry of Costs (vwar) (Entered: 07/28/2004)

07/29/2004		Motion hearing for Sheriff Saudi, Northrop Grumman, Newport News Ship [77-1] motion by Newport News Ship, Northrop Grumman to Strike Amended Designation of Expert Witnesses set at 10:30 8/4/04, [75-1] motion by Newport News Ship, Northrop Grumman to Compel Answers to First Set of Interrogatories set at 10:30 8/4/04, [74-1] motion by Sheriff Saudi to Compel Rule 26(a)(B) and (D) Disclosures and Proper Answers and Responses to Plaintiff's First Set of Written Interrogatories and First Requests for Production and for Entry of Costs set at 10:30 8/4/04, [73-1] motion by Sheriff Saudi to Extend Time Within Which to Complete Rule 26(a)(2)(B) Expert Witness Disclosures set at 10:30 8/4/04, [61-1] motion by Sheriff Saudi to Compel F.R.Civ. P. Rule 26(a) Disclosures set at 10:30 8/4/04 before Judge Henry C. Morgan Jr. (vwar) (Entered: 07/30/2004)
07/30/2004	75	MOTION by Newport News Ship, Northrop Grumman to Compel Answers to First Set of Interrogatories (vwar) (Entered: 07/30/2004)
07/30/2004	76	MEMORANDUM by Northrop Grumman, Newport News Ship in support of [75-1] motion to Compel

		Answers to First Set of Interrogatories, received. (vwar) (Entered: 07/30/2004)
07/30/2004	77	MOTION by Newport News Ship, Northrop Grumman to Strike Amended Designation of Expert Witnesses (vwar) (Entered: 07/30/2004)
07/30/2004	78	MEMORANDUM by Northrop Grumman, Newport News Ship in support of [77-1] motion to Strike Amended Designation of Expert Witnesses, received. (vwar) (Entered: 07/30/2004)
08/02/2004	79	MEMORANDUM by Northrop Grumman, Newport News Ship in opposition to [73-1] motion by Sheriff Saudi to Extend Time Within Which to Complete Rule 26(a)(2)(B) Expert Witness Disclosures, received. (vwar) (Entered: 08/02/2004)
08/02/2004	80	MEMORANDUM by Northrop Grumman, Newport News Ship in opposition to [74-1] motion by Sheriff Saudi to Compel Rule 26(a)(B) and (D) Disclosures and Proper Answers and Responses to Plaintiff's First Set of Written Interrogatories and First Requests for Production and for Entry of Costs, received. (vwar) (Entered: 08/02/2004)

08/03/2004	81	AFFIDAVIT by Sheriff Saudi Re: [74-1] motion by Sheriff Saudi to Compel Rule 26(a)(B) and (D) Disclosures and Proper Answers and Responses to Plaintiff's First Set of Written Interrogatories and First Requests for Production and for Entry of Costs (vwar) (Entered: 08/03/2004)
08/04/2004		Motion hearing held re: [77-1] motion by Newport News Ship, Northrop Grumman to Strike Amended Designation of Expert Witnesses by Newport News Ship, Northrop Grumman, [75-1] motion by Newport News Ship, Northrop Grumman to Compel Answers to First Set of Interrogatories by Newport News Ship, Northrop Grumman, [74-1] motion by Sheriff Saudi to Compel Rule 26(a)(B) and (D) Disclosures and Proper Answers and Responses to Plaintiff's First Set of Written Interrogatories and First Requests for Production and for Entry of Costs by Sheriff Saudi, [73-1] motion by Sheriff Saudi to Extend Time Within Which to Complete Rule 26(a)(2)(B) Expert Witness Disclosures by Sheriff Saudi, [61-1] motion by Sheriff Saudi to Compel F.R.Civ. P. Rule 26(a) Disclosures by Sheriff Saudi, [56-1] motion by Sheriff Saudi for Relief from Rule 16(b) Scheduling Order by Sheriff

		Saudi, [55-1] motion by Sheriff Saudi for Leave to Amend Pursuant to Rule 15(c) of the Federal Rules of Civil Procedure by Sheriff Saudi (danc) Modified on 08/09/2004 (Entered: 08/09/2004)
08/04/2004	82	Minute entry: COURT PROCEEDINGS: HCM, Jr, j; Jody Stewart, OCR. Ptf. app. pro se. W. Stauffer, Jr. app. on behalf of dfts. Northrop Grumman Corp. & Newport News Shipbuilding. Came on for hrg. on pending discovery motions & issues; argued. Stipulated Protective Order entered & filed in open court. Dfts.' motion to compel answers to first set of interrogatories (#75); GRANTED; must be answered within 11 days from today & submitted under oath & penalty of perjury. Ptf's. motion for enlargement of time to respond to Rule 26 disclosures for expert disclosures (#73); GRANTED. Court grants ptf. until Aug. 12, 2004, to file necessary information on no more than 3 experts that ptf. has retained them for this case & made arrangements for them to testify or be deposed. Court orders dft. to respond by Sept. 13, 2004 (#77). Court to decide on briefs motion for leave to amend (#55). Both parties may file a supplemental brief & evidence in support of their position in form of

		affidavit with 11 days of today & court will decide without oral argument. Ptf. may take any one deposition of witness from group of individuals listed in Dfts.' Answers to First Set of Interrogatories re: installation of crane (#77). Deposition must be held by September 13, 2004. Court's rulings and findings read into record. Court kept file & will prepare order. (danc) Modified on 08/10/2004 (Entered: 08/09/2004)
08/04/2004	83	Protective Order as to Sheriff Saudi, Northrop Grumman, Newport News Ship entered by Judge Henry C. Morgan Jr. & filed in open court. (danc) Modified on 08/10/2004 (Entered: 08/09/2004)
08/05/2004	84	ORDER advising parties that all supplemental pleadings should be filed by 8/15/04; advising the parties on deadline for identifing experts, and other certain discovery deadlines (see order for specifics), entered and filed 8/5/04 (signed by Judge Henry C. Morgan Jr.) Copies Mailed: 8/5/04 [EOD Date: 8/5/04] (vwar) Modified on 08/10/2004 (Entered: 08/05/2004)
08/06/2004	85	TRANSCRIPT of PROCEEDINGS for dates of 8/4/04, before USDJ Morgan, Jody A. Stewart, OCR. (vwar) Modified on 08/10/2004

		(Entered: 08/09/2004)
08/12/2004	86	MOTION by Sheriff Saudi to Require Defendants to Designate a Witness, or Witnesses, with Requisite Relevant Knowledge and to Allow Plaintiff to Take the Deposition of said Witnesses (vwar) (Entered: 08/12/2004)
08/16/2004	87	Supplemental Reply by Sheriff Saudi to [60-1] opposition memorandum by Newport News Ship, Northrop Grumman to Motion for Leave to Amend and Response to Defendants' Motion for Summary Judgment and/or Motion to Dismiss with brief in support and proposed order, received. (vwar) (Entered: 08/16/2004)
08/16/2004	87	AFFIDAVIT by Sheriff Saudi Re: [87-1] by Sheriff Saudi (vwar) (Entered: 08/16/2004)
08/17/2004	88	SUPPLEMENTAL MEMORANDUM by Northrop Grumman, Newport News Ship in opposition to [55-1] motion by Sheriff Saudi for Leave to Amend Pursuant to Rule 15(c) of the Federal Rules of Civil Procedure, received (Late supplemental response). (vwar) (Entered: 08/18/2004)
08/19/2004	89	MEMORANDUM by Northrop Grumman, Newport News Ship in

		opposition to [86-1] motion by Sheriff Saudi to Require Defendants to Designate a Witness, or Witnesses, with Requisite Relevant Knowledge and to Allow Plaintiff to Take the Deposition of said Witnesses, received. (vwar) (Entered: 08/19/2004)
08/25/2004	90	MOTION by Newport News Ship, Northrop Grumman for Summary Judgment Based on Collateral Estoppel and Res Judicata (vwar) (Entered: 08/25/2004)
08/25/2004	91	MEMORANDUM by Northrop Grumman, Newport News Ship in support of [90-1] motion for Summary Judgment Based on Collateral Estoppel and Res Judicata, received. (vwar) (Entered: 08/25/2004)
08/25/2004		Deadline updated; Response to Motion reset to 9/8/04 for [90-1] motion by Newport News Ship, Northrop Grumman for Summary Judgment Based on Collateral Estoppel and Res Judicata (vwar) (Entered: 08/25/2004)
09/07/2004	92	MOTION by Newport News Ship, Northrop Grumman to Strike Plaintiff's Amended Designation of Expert Witnesses (vwar) (Entered: 09/07/2004)
09/07/2004	93	MEMORANDUM by Northrop

		Grumman, Newport News Ship in support of [92-1] motion to Strike Plaintiff's Amended Designation of Expert Witnesses, received. (vwar) (Entered: 09/07/2004)
09/08/2004	94	MOTION by Sheriff Saudi for Leave to File Second Amended Complaint (vwar) (Entered: 09/09/2004)
09/08/2004	95	RESPONSE by Sheriff Saudi to [90-1] motion by Newport News Ship, Northrop Grumman for Summary Judgment Based on Collateral Estoppel and Res Judicata, received. (vwar) (Entered: 09/09/2004)
09/08/2004	96	Response by Sheriff Saudi to defendants' Statement of Material Facts not in Dispute in Support of Motion for Summary Judgment based on Collateral Estoppel and Res Judicata, received. (vwar) (Entered: 09/09/2004)
09/08/2004	97	AFFIDAVIT by Sheriff Saudi Re: [95-1] motion response by Sheriff Saudi (vwar) (Entered: 09/09/2004)
09/09/2004	98	REPLY by Northrop Grumman, Newport News Ship to response to [90-1] motion for Summary Judgment Based on Collateral Estoppel and Res Judicata by Newport News Ship, Northrop Grumman, received. (vwar)

		(Entered: 09/09/2004)
09/10/2004	99	MOTION by Sheriff Saudifor Leave to File Out-of-Size Brief in Opposition to Defendants Motion for Summary Judgment (vwar) (Entered: 09/10/2004)
09/14/2004	100	MOTION by Newport News Ship, Northrop Grumman to Strike Plaintiff's Jury Demand (vwar) (Entered: 09/14/2004)
09/14/2004	101	MEMORANDUM by Northrop Grumman, Newport News Ship in support of [100-1] motion to Strike Plaintiff's Jury Demand, received. (vwar) (Entered: 09/14/2004)
09/17/2004	102	RESPONSE by Sheriff Saudi to [100-1] motion by Newport News Ship, Northrop Grumman to Strike Plaintiff's Jury Demand, received. (vwar) (Entered: 09/17/2004)
09/20/2004	103	Response by Sheriff Saudi to [92-1] motion by Newport News Ship, Northrop Grumman to Strike Plaintiff's Amended Designation of Expert Witnesses, received. (vwar) (Entered: 09/21/2004)
09/21/2004	104	REPLY by Northrop Grumman, Newport News Ship to response to [90-1] motion by Newport News Ship, Northrop Grumman for Summary Judgment Based on Collateral Estoppel and Res

		Judicata, received. (vwar) (Entered: 09/22/2004)
09/21/2004	105	MEMORANDUM by Northrop Grumman, Newport News Ship in opposition to [94-1] motion by Sheriff Saudi for Leave to File Second Amended Complaint, received. (vwar) (Entered: 09/22/2004)
09/23/2004	106	EXPEDITED MOTION by Sheriff Saudi to Take Depositions of Dr. Mark Maffet, Dr. Rizkallah and Captain ERnesto Violetta out of time (clerk) (Entered: 09/24/2004)
09/24/2004		Final Pretrial Conference Hearing Held. (danc) (Entered: 09/27/2004)
09/24/2004	107	Minute entry: COURT PROCEEDINGS: HCM, Jr., j; Jody Stewart, OCR. Ptf. app. pro se. G. Decker, Jr., app. on behalf of dfts. Came on for Final Pretrial Conference Pending matters reviewed by court, cnsl. & ptf. Court's rulings read into record. Proposed Final Pretrial Order signed by all parties & entered & filed in open court. (danc) (Entered: 09/27/2004)
09/24/2004	108	Final Pretrial Order (signed by Judge Henry C. Morgan Jr.) & filed in open court. (danc) (Entered: 09/27/2004)

09/29/2004	109	TRANSCRIPT OF PROCEEDINGS for dates of 9/24/04, before USDJ Morgan, Jody A. Stewart, OCR. (vwar) (Entered: 09/30/2004)
10/06/2004	110	MOTION by Sheriff Saudi to Allow Mark Maffet, M.D. to Testify Telephonically at Trial in this Case (with proposed order) (vwar) (Entered: 10/06/2004)
10/12/2004	111	REQUESTED FINDINGS OF FACT AND CONCLUSIONS OF LAW by Sheriff Saudi received & filed. (danc) (Entered: 10/12/2004)
10/12/2004	112	PROPOSED FINDINGS OF FACT AND CONCLUSIONS OF LAW by Northrop Grumman, Newport News Ship received and filed. (danc) (Entered: 10/12/2004)
10/12/2004		Bench trial held (danc) (Entered: 10/12/2004)
10/12/2004	113	Minute entry: COURT PROCEEDINGS: HCM, Jr, j; Jody Stewart, OCR. Ptf. app. pro se. W. Stauffer, Jr., & G. Decker, Jr. app. on behalf of dfts., Northrop Grumman Corporation & Newport News Shipbuilding, Inc. A. Shipley, Sr. Corp. Representative, pres. on behalf of dfts. Came on for Bench Trial. Opening statements heard. Oral request by ptf. to have cnsl. who are not members of the bar of

		this court to assist him in this trial; argued. Joe Izen & Afton Izen sworn & answered questions of the court. Motion DENIED. Rulings read into record. Ptf. pres. evidence in part. Parties exc. until Oct. 13, 2004, at 9:30 A.M. Adj. (danc) (Entered: 10/13/2004)
10/13/2004		Bench trial held (danc) (Entered: 10/13/2004)
10/13/2004	114	Minute entry: COURT PROCEEDINGS: HCM, Jr, j; Jody Stewart. OCR. Ptf. app. pro se. W. Stauffer, Jr. & G. Decker, Jr. app. on behalf of dfts., Northrop Grumman Corporation & Newport News Shipbuilding, Inc. A. Shipley, Sr. Corp. Representative, pres. on behalf of dfts. Came on for cont. of Bench Trial. Ptf. cont. pres. of evidence & rested. Dfts.' oral motion for judgment on partial findings purs. to Rule 52(c) of F.R.Civ.P.; argued; GRANTED. Court directs clerk to enter judgment in favor of dfts., Northrop Grumman & Newport News Shipbuilding, today. Court's rulings & findings read into record. Adj. (danc) (Entered: 10/15/2004)
10/13/2004	115	JUDGMENT on decision by Court that motion for judgment of dfts., Northrop Grumman Corporation & Newport News Shipbuilding, Inc.,

		on partial findings purs. to Rule 52(c) of F.R.Civ.P., is GRANTED. & judgment is entered in favor of said dfts., ent. by the Clerk 10/13/04 & filed 10/14/04. Copies Mailed: to ptf. & cnsl. 10/15/04. o.b. [EOD DATE: 10/15/04] (danc) (Entered: 10/15/2004)
10/15/2004		Case closed (mwin) Modified on 10/18/2004 (Entered: 10/18/2004)
10/15/2004		Permanent Record (mwin) (Entered: 10/18/2004)
10/28/2004	116	MOTION by Sheriff Saudi to Require Defendants, Northrop Grumman Corp. and Newport News Shipbuilding, Inc. to Pay Expert Witness Fees to Lynn Wyman and to George Moran for Depositions Requested and Taken by Defendants (vwar) (Entered: 11/01/2004)
11/09/2004	117	ORDER granting plaintiff's motion for leave to Amend Complaint pursuant to Fed. R.Civ. P. 15(c), entered and filed 11/9/04 (signed by Judge Henry C. Morgan Jr.) Copies Mailed: 11/9/04 [EOD Date: 11/9/04] (vwar) (Entered: 11/09/2004)
11/09/2004	119	NOTICE OF APPEAL by Sheriff Saudi (jcow) Modified on 02/03/2005 (Entered: 11/09/2004)

05/14/2006 14:47:32			
PACER Login:	aj0120	**Client Code:**	saudi
Description:	Docket Report	**Search Criteria:**	2:03-cv-00299-HCM-TEM
Billable Pages:	11	**Cost:**	0.88

		News Shipbuilding and Drydock Company, ent. by the Clerk 11/9/04 & filed 11/10/04. Copies Mailed: to ptf. & cnsl. 11/10/04. o.b. [EOD DATE: 11/10/04] (danc) Modified on 02/03/2005 (Entered: 11/10/2004)
11/16/2004	122	TRANSCRIPT OF PROCEEDINGS for date of 10/12/04 before U.S. District Judge Henry C. Morgan, Jr., Jody Stewart, OCR (jcow) Modified on 02/03/2005 (Entered: 11/17/2004)
11/16/2004	123	TRANSCRIPT OF PROCEEDINGS for date of 10/13/04 before U.S. District Judge Henry C. Morgan, Jr., Jody Stewart, OCR (jcow) Modified on 02/03/2005 (Entered: 11/17/2004)
11/19/2004		USCA Case Number Re: [118-1] appeal by Sheriff Saudi CASE MANAGER: Sharon Wiley USCA NUMBER: 04-2444 (jcow) (Entered: 11/22/2004)
12/10/2004	124	ORDER of retention of the record pursuant to Rule 11(e) of FRAP, ordering the clerk of the district court to retain the record subject to the request of the Court of Appeals, the clerk shall transmit certified copies of designated parts of the record at the request of the Court of Appeals, entered 12/9/04 and filed 12/10/04 (signed by Judge Henry

		C. Morgan Jr.) Copies Mailed: 12/10/04 [EOD Date: 12/10/04] (jcow) Modified on 02/03/2005 (Entered: 12/10/2004)
12/14/2004		USCA appeal fees received $ 255.00 Receipt # 46136 (jcow) (Entered: 12/14/2004)
01/28/2005	125	ORDER granting defendants' Motion for Judgment as a Matter of Law pursuant to Fed. R. Civ. P. 52(c), entered and filed 1/28/05 (signed by Judge Henry C. Morgan Jr.) Copies Mailed: 1/28/05 [EOD Date: 1/28/05] (vwar) Modified on 02/03/2005 (Entered: 01/28/2005)
02/03/2005	126	ORDER granting in part, denying in part [116-1] motion by Sheriff Saudi to Require Defendants Northrop Grumman Corp. and Newport News Shipbuilding, Inc. to Pay Expert Witness Fees from discovery; ordering defendants to pay fifty percent of the fee request submitted by Messrs. Wyman and Moran, entered and filed 2/3/05 (signed by Judge Henry C. Morgan Jr.) Copies Mailed: 2/3/05 [EOD Date: 2/4/05] (jcow) (Entered: 02/04/2005)
02/04/2005		Certification of completion sent to USCA re: [119-1] appeal by Sheriff Saudi (jcow) (Entered: 02/04/2005)
09/23/2005		Certified and Transmitted Partial

		Record on Appeal to US Court of Appeals re [119] Notice of Appeal; transmitted document number 42 only - Transcript of Proceedings (jcow,) (Entered: 09/23/2005)
10/27/2005	127	Opinion of USCA (Copy) affirming the judgment of the district court re [119] Notice of Appeal attached copy of judgment will not take effect until issuance of the mandate. (jcow,) (Entered: 11/01/2005)
11/21/2005	128	Certified copy of ORDER of USCA as to [119] Notice of Appeal filed by Sheriff Saudi, granting appellees $965.30 in costs per the filed bill of costs. (jcow,) (Entered: 11/22/2005)
11/21/2005	129	Certified copy of USCA JUDGMENT as to [119] Notice of Appeal filed by Sheriff Saudi, affirming the judgment of the district court. (jcow,) (Entered: 11/22/2005)
11/23/2005		Appeal Record Returned: [119] Notice of Appeal (jcow,) (Entered: 11/23/2005)

PACER Service Center
Transaction Receipt

05/14/2006 14:47:32			
PACER Login:	aj0120	**Client Code:**	saudi
Description:	Docket Report	**Search Criteria:**	2:03-cv-00299-HCM-TEM
Billable Pages:	11	**Cost:**	0.88

Appendix D

United States District Court
Eastern District of Virginia
Norfolk Division

Captain Sheriff Saudi,

Plaintiff(s)

v.

JUDGEMENT IN A CIVIL CASE

CASE NUMBER: 2:03cv299

Northrop Grumman Corporation, et al,

Defendant(s)

[ ] Jury Verdict. This action came before the Court for a trial by jury. The issues have been tried and the jury has rendered its verdict.

[X] Decision by Court. This action came to trial or hearing before the Court. The issues have been tried or heard and a decision has been rendered.

IT IS ORDERED AND ADJUDGED that motion for judgment of defendants, Northrop Grumman Corporation and Newport News Shipbuilding, Inc., on partial findings pursuant to Rule 52(c) of F.R.Civ.P., is GRANTED.

IT IS FURTHER ORDERED AND ADJUDGED that judgment is entered in favor of defendants, Northrop Grumman Corporation and Newport News Shipbuilding, Inc.

DATE: October 13, 2004

Elizabeth H. Paret, Clerk

(By)Deputy Clerk

Appendix E

United States District Court
Eastern District of Virginia
Norfolk Division

Captain Sheriff Saudi,

Plaintiff(s)

v.

Northrop Grumman Corporation, et al,

Defendant(s)

AMENDED
JUDGEMENT IN A CIVIL CASE

CASE NUMBER: 2:03cv299

[ ] Jury Verdict. This action came before the Court for a trial by jury. The issues have been tried and the jury has rendered its verdict.

[X] Decision by Court. This action came to trial or hearing before the Court. The issues have been tried or heard and a decision has been rendered.

IT IS ORDERED AND ADJUDGED that motion for judgment of defendants, Northrop Grumman Corporation and Newport News Shipbuilding, Inc., on partial findings pursuant to Rule 52(c) of F.R.Civ.P., is GRANTED.

IT IS FURTHER ORDERED AND ADJUDGED that judgment is entered in favor of defendants, Northrop Grumman Corporation and Newport News Shipbuilding, Inc.

DATE: November 9, 2004

Elizabeth H. Paret, Clerk

(By)Deputy Clerk

Appendix F

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Norfolk Division

SHERIFF SAUDI, CAPTAIN,
Plaintiff, CIVIL ACTION NO. 2:03cv299
v.
NORTHROP GRUMMAN CORPORATION, et al.,
Defendants.

TRANSCRIPT OF PROCEEDINGS
Norfolk, Virginia
March 29, 2004
BEFORE: THE HONORABLE HENRY C.MORGAN, JR.
United States District Judge

APPEARANCES:

SHERIFF SAUDI, CAPTAIN, pro se
VANDEVENTER BLACK

exceeded the time limit and you requested them that they either provide it or you are going to pull the plug and dismiss the pleading or deny the pleading of the -- sorry, the brief that they wanted to dismiss for lack of jurisdiction.

What happened is that I found it is very -- it would be very harassing and it would be also irrespect to the Court that after you have communicated with him as to compel him to produce these documents, that I would file another motion to compel him. I didn't find that this is the right way that I should do ever. I lifted as for your order to them, and I considered that this is an order to compel issued by the Court.

As far as I can see, Your Honor, is that the answer was not -- it was incorrect, and I would borrow your comment on it, at the generous terms, it is incorrect. So they have a communication with Marine Transport Line for six months. There was a joint venture between them and Marine Transport Line to refurbish the Marine Atlantic. The problem, Your Honor, is that they also -- if they have records that was destroyed or old, they could not find it, they simply have the right to go to Marine Transport Line and ask them or demand that Marine Transport Line would give them the same documents that they had before.

or not as far as sanctions are concerned or as far as argument on the motion. This is not the time to present additional factual evidence. You've had the opportunity to do that, and you hand me a brief immediately before Court. I don't know how you expect the Court or counsel to review a brief that is handed -- that was filed with the Court at 2:03 when a hearing is scheduled for 2:30. I don't think it takes an attorney to know that. I think anyone would know better than to think that such a pleading could be dealt with. So whatever you have to say about those two issues, this is the time to say it.

CAPT. SAUDI: Yes, Your Honor. I was trying to say that I was surprised with it but I was -

THE COURT: I don't accept surprised as an issue, Captain Saudi.

CAPT. SAUDI: I will take it back, Your Honor. I didn't know that -- let me take this back, Your Honor, completely. I was trying to approach the point but this point actually is before -- when we have finished the court last time, I talked to Mr. Ryan and Mr. Stauffer, and I told them that I will be in Switzerland until the 22nd or the 23rd because we have a deposition there for Marine Atlantic. And so -- and I said I'm going to be leaving on the 6th or the 7th. I left even a message to Mr. Stauffer's office, and I think he would agree with me that I have left

that message if there is anything he needs to do specifically about what he mentioned as for summary judgment, I would appreciate that he would e-mail it to me, and I gave my e-mail address that I can retrieve it whenever I am.

So what I'm trying to say, Your Honor, is Mr. Stauffer and Mr. Ryan knew that I am in Switzerland and I would not be back until the 23rd, and I have the documents to support that. And I did talk to Mr. Ryan on, I believe, on the 23rd or the 24th asking about Lopez case, and he said to me, "I have sent it to you, Captain Saudi. Did you ever receive it?" I said, "I just came from Switzerland and I'm going to look into it and pick it up."

So I really, Your Honor, did not have but only maybe a few days, four days or five days to look into whatever he had filed and to be able to gather all the information to respond to it, and that is only for the Court consideration of what happened regarding the reply.

THE COURT: It is your responsibility, Captain Saudi, to either respond in a timely fashion or ask the Court to grant you an extension.

CAPT. SAUDI: Yes, Your Honor.

HE COURT: All right. Let's proceed to talk about the issues before the Court.

CAPT. SAUDI: I would like to recorrect Mr. Ryan when he mentioned about MTL is a Liberian company. MTL,

Marine Transport Line and Marine Transport Corporation, they are not Liberian companies. They are U.S. companies, U.S. corporations, and they reside in Weehawken, New Jersey. Mr. Ryan talked about Mr. Chow who I know is the U.S. law. So Mr. Chow, and he knows the U.S. law, and his sworn testimony did not say personal knowledge and belief. It was just talking about knowledge or information and belief. He is supposed to know quite well that his affidavit have to be specific about this, and so we consider that this affidavit is also incorrect.

Also, Mr. Chow knows about the law of the United States so he knows that he can go to Marine Transport Line as a corporation and ask for the documents. He knows about Rule 33 and Rule 37. And also then Keppel Group know about the Brownsville. And the Interrogatory No. 5, I don't want to go back into it, Your Honor, but it is very clear in Interrogatory No. 5.

THE COURT: Well, Interrogatory No. 5 is not very clear on that point, Captain. I mean, it could be argued either way, and they could have given it a liberal interpretation -

CAPT. SAUDI: They could ask.

THE COURT: -- a broad interpretation, I suppose, and they could have given you that information. But they have given you that information now.

view. The plaintiff has to show that there is no other court that has jurisdiction in order for the Court to invoke the unique jurisdiction upon which the plaintiff relies in this case. So the Court believes that it does not have jurisdiction over Keppel.

As far as the sanctions are concerned, sanctions are an extreme remedy. The Court does believe that the responses filed by Keppel substantially comply with the rules. They may not use exactly the same language that the Court would use if it were deciding exactly how the interrogatories should be answered, but it does -- the Court does believe that it substantially complies with the rules applying that control answers to interrogatories, particularly considering that they are coming from a foreign source.

Interrogatory No. 5 could be argued either way, that is, it could be argued that the word "association" is broad enough to include a wholly owned subsidiary or it could be argued the other way. But whatever view the Court takes of the answers filed, Keppel has judicially admitted that it has a wholly owned subsidiary in Brownsville, Texas.

If that's the basis for jurisdiction, then the plaintiff has a source of jurisdiction against Keppel. I'm not deciding that it is a basis for jurisdiction, but what I'm saying and deciding is that the plaintiff has not affirmatively shown that it's not a basis for jurisdiction

either in Texas or New Jersey. Again, the plaintiff's standing before the Court is very much complicated by the multiplicity of litigation in which he's previously engaged as well as by his continued contact with the office of counsel during and in relation to this proceeding. So the Court cannot grant the plaintiff the deference it would otherwise grant to a pro se litigant. That deference is based on the fact that the Court is dealing with someone who is not trained in the law and should not be held to the standards which someone trained in the law would be held. But when the plaintiff has been involved in so many items of litigation, and some of which he was represented by counsel, and when he's actually conferred with the office of counsel, and according to the defendant himself has actually discussed the case with counsel in another jurisdiction, the Court does not feel that it can grant him pro se status. Either you're pro se or you're not pro se. You can't be pro

for granting the motion to dismiss. Is that also allowing me to be able to transfer it to Brownsville?

THE COURT: No, it is not allowing you to transfer it. You can bring an action in Brownsville, if you want, and you can argue the time that it has been pending in this court should not count against the time that you're filing it. You can make that argument if you file it in Brownsville or in New Jersey or wherever else you think you might be able to file it.

CAPT. SAUDI: Thank you, Your Honor.

THE COURT: Now, I'm not ruling that the time pending in this case does not count against you. I'm simply saying you can make that argument. It is up to the Court before whom you make that argument to rule on that issue.

CAPT. SAUDI: I understand.

THE COURT: All right.

MR. STAUFFER: Very briefly, Your Honor, Bill Stauffer for Northrop Grumman and Newport News Shipbuilding. When we were before Your Honor on March the 4th, I mentioned at the conclusion of that hearing that a motion for summary judgment would be filed by the two companies, neither of which built the ship in question. I'm pleased to report that immediately after the hearing, all of us met. We had our meet and confer. I explained to Mr. Saudi what the motion would say. Obviously, he didn't agree with it
The only reason that matter hasn't been filed is I don't have the affidavit yet back from one of the companies.

Appendix G

IN THE UNITED STATES DISTRICT COURT FOR
THE EASTERN DISTRICT OF VIRGINIA
NORFOLK DIVISION

SHERIFF SAUDI, CAPTAIN,

Plaintiff,

v.

NORTHROP GRUMMAN CORP., et al.,

Defendants.

TRANSCRIPT OF PROCEEDINGS

Norfolk, Virginia

June 14, 2004

Before: THE HONORABLE HENRY C. MORGAN, JR.

Appearances:

SHERIFF SAUDI, Plaintiff, Counsel Pro Se

VANDEVENTER BLACK, LLP

By: JOHN M. RYAN, ESQUIRE

Counsel for Keppel Group

BRACEWELL & PATTERSON, LLP

By: WILLIAM L. STAUFFER, JR., ESQUIRE
12355 Sunrise Valley Drive, 5th Floor
Reston, VA 20191
Counsel for Northrop Grumman and
Newport News Shipbuilding, Inc.

the court previously considered the issue.

To the extent that there is any additional evidence of activity by Keppel in the United States, that does not help the plaintiff's case. In fact, it further supports the court's decision.

It might indicate that Keppel did not have complete information or for some reason did not file complete information initially in its answers to interrogatories, but the court has already considered that issue as well. And we are talking about events that took place quite a long time ago.

And the court has already decided that under the circumstances it was not going to take any punitive action against Keppel because of its answers, although the court did on several occasions indicate that it thought Keppel was dilatory in responding.

But that tendency is not rare, particularly when you're dealing with out-of-state or out-of-country organizations, so there simply isn't any basis for the court to reconsider its prior ruling on that point.

MR. SAUDI: Thank you, Your Honor.

THE COURT: All right. The court will next hear from Northrop Grumman upon its summary judgment motion based on corporate succession.

MR. STAUFFER: Good morning, Your Honor. May it please the court, Bill Stauffer for Northrop Grumman

the last minute and walk into court with documents that you want the court to consider in a matter that's before it on the very day that you hand them to the court.

MR. SAUDI: Yes, I do, Your Honor.

THE COURT: All right. Well, don't do it again.

MR. SAUDI: Yes, I understand, Your Honor.

THE COURT: Because the court is not going to accept them, as I said.

MR. SAUDI: I understand.

THE COURT: I thought I had made that clear to you before.

MR. SAUDI: It is clear, Your Honor. These documents was only to respond to Mr. Stauffer. That was all, Your Honor. He pointed up some document and said Captain Saudi did.

THE COURT: We're not dealing with that, Captain.

MR. SAUDI: Okay, Your Honor. I understand now.

THE COURT: Why do you want relief from the scheduling order?

MR. SAUDI: Your Honor, before April 1st - I would say in October last year I did contact Mr. Stauffer, and I was asking him for Rule 26 disclosures. And the answer was that the court would not look into disclosures until the Keppel issue is closed or at least a summary judgment first.

THE COURT: I'm not interested in conversations between you and counsel for other parties. That's not a reason

for the court to-delay any of its proceedings.

When parties discuss discovery and other issues, if one party is not satisfied with what happened, that party should file an appropriate motion. I'm not going to decide any issues on the basis of purported conversations between counsel or between an unrepresented party and counsel unless and until there is a motion before the court based on whatever that was.

Now, you were instructed to proceed with discovery, and you're going to have to proceed with it within the time set in the scheduling order unless you file some motion or some discovery to which they haven't responded.

MR. SAUDI: I understand, Your Honor.

THE COURT: Have you done that?

MR. SAUDI: I did ask Mr. Stauffer -

THE COURT: I'm not talking about asking Mr. Stauffer. I'm asking if you've filed discovery.

MR. SAUDI: No, I did not file anything. I wanted disclosures from him, and he didn't want to give it to me.

THE COURT: Well, then file a motion.

MR. SAUDI: Okay, Your Honor. I thought it was automatic, Your Honor. I thought that disclosures is automatic, and I don't have -

THE COURT: It may be, and if they've failed to provide you with the disclosures and they can't explain it, then the court will handle that. But I'm not going to deal

Appendix H

IN THE UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF VIRGINIA

Norfolk Division

SHERIFF SAUDI, CAPTAIN,

Plaintiff, CIVIL ACTION NO. 2:03cv295

v.

NORTHROP GRUMMAN CORPORATION, etal.,

Defendants

TRANSCRIPT OF PROCEEDINGS

Norfolk, Virginia

August 4, 2004

BEFORE: THE HONORABLE HENRY C. MORGAN, JR.
United States District Judge

APPEARANCES:

SHERIFF SAUDI, CAPTAIN, pro se

BRACEWELL & PATTERSON, LLP

By: William Lewis Stauffer, Jr.

Counsel for the Defendant Newport News

Shipbuilding, Inc., and Northrop Grumman Corp.

THE COURT: I understand that.

MR. STAUFFER: Thank you.

THE COURT: All right. You're asking for an enlargement of time to respond to the Rule 26 disclosures and the expert disclosures; is that correct?

CAPT SAUDI: That's correct, Your Honor.

THE COURT: And I understand why you're asking for that. What else are you asking for by way of discovery?

CAPT SAUDI: There is some documents that I still could not get which about the installation of the crane. The depositions of the first two, Your Honor, that was given to me in the disclosures I received from Mr. Stauffer, they were -- they were not helpful. They -- one of the gentleman is a fluid engineer. He has no idea about cranes.

The second one is a person of cranes but he has no idea about offshore cranes. And that's -- this is what was presented to me in the disclosures, only three names that were available.

THE COURT: All right. What else you got?

CAPT SAUDI: Other than that, Your Honor, I'm fine. I'm doing all my best to comply with your previous order that I should swiftly do all the discovery, and I'm doing all my best. Every time that he rejected any of my subpoenas, I do another subpoena. I come here to Norfolk, Your Honor. I never wasted any time to come over and try to comply with

We went through in our motion to strike, and unless you want to hear it at the same time, won't bore you with it. We looked at each one of those 28 designated people. None of them touch upon the issues of this case for design defect. None of them. None of them has been identified as having areas of purported expertise involving defective crane design nor inadequacy of warning nor any of them being offered up to provide testimony in those areas.

Now, oh, I have this in the pleadings. This is no a matter of he said/she said. It is something I have signed off. I called three of these expert witnesses. The three that I talked to said, "I haven't been retained for this case. Mr. Saudi isn't authorized to identify me as an expert witness, and I told him so."

So not only do I have in our motion before this Court and part of the record an absolute deficiency in what it is we were to get on July the 12th, at least as to three people who look like they might be mechanical engineering people, Mr. Jeffrey Egan, who he dropped him then, Dr. Salah Mahmoud and Howard Shapiro, I have identified in my brief that those folks say they haven't been retained to testify about issues in this case, but they have been identified by Mr. Saudi as his experts.

Now, he's been in constant litigation over this accident since the year it happened back in 1999. He's been

CAPT SAUDI: Yes.

THE COURT: I'm going to give you until August 12th to file the necessary information on your experts. You are going to be limited to three experts, and when you file it, you will have to file a statement under oath with the information on the experts that you have retained for this case and made arrangements for them to testify.

CAPT SAUDI: I understand, Your Honor.

THE COURT: And because of your lateness I'm going to limit you to three. That doesn't mean you have to have three. You can have none, one, two or three, but not more than three. And you'll have to have the information to the defendant by August 12th.

Now, I'm going to give the defendant until September the 12th to respond.

CAPT SAUDI: If I understand -

THE COURT: Now, you understand that you're not going to be able to just throw in a list of people from which you can later attempt to draw experts. That is not acceptable. You're limited to three. You have to furnish the information to all three of them that's required by the rules, and in addition to that, because I'm granting you an extension, I am requiring you to state under penalty of perjury that you have made arrangements with any expert that you designate to be a witness in the case, which means that

they either have to be prepared to come to testify or they have to be prepared to be deposed because I'm going to let you depose expert witnesses because I will let the defendants depose.

CAPT SAUDI: I understand, Your Honor.

THE COURT: ,.I understand that it can be very difficult to deal with expert witnesses but there's no excuse for just throwing 30 people into the hopper, some of which obviously have nothing to do with this case. Now, what have you got to say about your motion for leave to amend? Did you not think that was going to be heard today?

CAPT SAUDI: No, Your Honor.

THE COURT: You didn't think it was going to be heard?

CAPT SAUDI: I was told that this is only for the discovery.

THE COURT: Well, that may have been my fault, but I had just assumed that since it was fully briefed that we would be ready to go with it. So if you are not prepared to argue it, the Court will decide it on the briefs.

CAPT SAUDI: I will do my best, Your Honor, to argue it now if you want.

THE COURT: No. You didn't come here prepared to argue it, I'll decide it on the briefs.

IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF VIRGINIA
Norfolk Division

SHERIFF SAUDI, CAPTAIN,

Plaintiff,

v.

NORTHROP GRUMMAN CORPORATION, et al.

Defendants.

CIVIIL ACTION NO.

2:03cv299

TRANSCRIPT OF PROCEEDINGS

Norfolk, Virginia

September 24, 2004

BEFORE: THE HONORABLE HENRY C. MORGAN, JR.

United States District Judge

APPEARANCES:

SHERIFF SAUDI, CAPTAIN, pro se

BRACEWELL & PATTERSON, LLP
By: R. Grant Decker
Counsel for the Defendant Newport News Shipbuilding, Inc., and Northrop Grumman Corp.

to submit to the Court in relation to this order at this time?

MR. SAUDI: I don't have anything else at this time, Your Honor.

THE COURT: All right, Mr. Decker.

MR. DECKER: Yes, Your Honor.

THE COURT: Would you come forward to the podium. Now, you've got objections to the plaintiff's witnesses principally because they are apparently experts and you haven't received the necessary expert disclosures?

MR. DECKER: That's correct, Your Honor.

THE COURT: Does that mean that you haven't received any disclosures or that the disclosures you received, you contend, are inadequate?

MR. DECKER: We received disclosures reports for three, Your Honor.

THE COURT: I think we limited the number of experts, did we not, at -

MR. DECKER; That's correct.

THE COURT: -- one of the past hearings?

MR. DECKER: That's correct. And that's the basis for our objection, in part. We received no reports regarding any of the medical experts. And so to the extent any of these witnesses offer or plan to offer expert testimony, we would object. To the extent they are purported treating

physicians, that is different. I think one of the attorneys -- excuse fie, one of the doctors, Dr. Barrash isn't even purported to be a treating physician. So we object to his testimony on the grounds that no report was produced.

THE COURT: Well, I can't recall the Court's precise ruling. I think I said that the plaintiff could have three expert witnesses, did I not; is that right?

MR. DECKER: The order is here, Your Honor, and what Your Honor ruled was that the plaintiff could have three design defect expert witnesses.

THE COURT: Yeah, that's what I was thinking about.

MR. DECKER: And as it is set up, Mr. Saudi filed his reports late, and not his reports, his identification of experts, and he had listed 30 expert witnesses. And because he was late, we moved to strike, and because they didn't produce any reports, we moved to strike. And Your Honor's sanction against Mr. Saudi was he couldn't use the 20 or 30 design defect experts, he could only use three of them. The basis for our objection, and it is in our motion to strike that we filed previously, is that he then identified and filed reports for three design defect experts but two of them weren't among the 30. And we don't believe that that was what Your Honor had intended, and so we object on that basis.

And then -- that is Mr. Moran and Wyman. And then

the only other expert is Mahmoud who -- the report that he provided to us is from the Texas Case It is dated October 2, 2000. That is a different case, different issue. In fact, it is really the opposite issue as in this case And there are three other experts that he's identified that aren't doctors. That is Captain Vicletta, Mr. Farman, and one other, and, of course, Your Honor limited him to three. They are not among the three that he even filed reports for. So that's the basis for our objection to the witnesses.

THE COURT: All, right. Captain Saudi, you are going to have to state right now who the three are. Now, that doesn't mean that you are going to be able to use those three.

MR. SAUDI: I understand, Your Honor.

THE COURT: That will depend on the other facts. Who are the three design experts that you intend to or you want to use?

MR. SAUDI: I did exactly what you ordered me, Your Honor

THE COURT: Who are they?

MR. SAUDI: They are Mr. Moran.

THE COURT: Who?

MR. SAUDI: Mr. Moran, George Moran.

THE COURT: George Moran.

MR. SAUDI: And Mr. Wyman, Lynn Wyman.

THE COURT: Lynn Wyman.

MR. SAUDI: And Mr. Mahmoud or Dr. Mahmoud.

THE COURT: And what was Mahmoud's first name?

MR. SAUDI: It's Salah, S-a--l-a-h, Your Honor. And I submit them right on the time that you ordered me to, Your Honor, on August 12th.

THE COURT: Okay. All right. So they're the three_ Now, whether you can use any one of those three depends on whether you have complied with the disclosure requirements for expert witnesses.

MR. SAUDI: I understand, Your Honor.

THE COURT: I don't know whether you have or not at this point.

MR. SAUDI: I understood your order is that I would have chance for in eight days, I should bring three witnesses, and I understood that I would have to look for somebody that have not been contacted before with the defendant's attorney. I mean, that's my hard time. I have submitted some documents to show that I have contacted many expert witness previously that were in the list and for some -

THE COURT: Well, there is no need to talk-about anybody but these three.

MR- SAUDI: That's correct. Your Honor.

THE COURT: All right. So what have you given the defendant regarding these three witnesses?

MR. SAUDI: I give them what is required by the rules, Your Honor. I've give them the data. I've give them the experience, the opinion. I have give them the curriculum vitae and the expenses.

THE COURT: All right, Mr. Decker. What about it? Have you received the necessary information as to these three witnesses?

MR. DECKER: Yes, Your Honor. As far as it goes. But as I said before, Mr. Moran and Mr. Wyman weren't among the 30 that he initially identified, and we believe that Your Honor's order sanctioned, pursuant to our first motion to strike, was you've listed 20 or 30 experts. You can pick three of them, not that you can go out and get two additional ones. so that's the basis for our objection.

THE COURT: I don't know whether I specifically covered that. I don't think I specifically covered that in the order because I don't recall it being an issue at the time ofe order. So what you're saying is he'd given a list of 30 experts and he just brought in two new ones that weren't on the list?

MR. DECKER: That's correct, Your Honor.

THE COURT: All right.

MR. DECKER: And as to --

THE COURT: well, have you sought to discover any of these experts?

MR. DECKER: Yes, Your Honor. And we intend to - we are in discussions about when they will be deposed, and those depositions are being set up.

THE COURT: All right.

MR. DECKER: As far as Mr. Mahmoud, though, I mean, that, as I mentioned, you asked whether that report was sufficient. That is the report dated October 2, 2000o

THE COURT: Well, it could be sufficient. I don't know. I mean, the date on it doesn't really mean anything if it -- his report may not be relevant to this case. I thought that's what you were saying?

MR. DECKER: Precisely.

THE COURT: And, of course, he can't testify beyond what's in his disclosure. But I have no way of knowing at this point whether his disclosure is relevant to the case or not. So I'll have to pass on that when he's tendered as a witness.

As to the other two who weren't on the original list, I don't know what to say because I didn't realize what the situation was there because I haven't gone through all of these various motions in reference to the pretrial conference, because, of course, the purpose of the attorney's conference is to discuss and resolve any objections that can

be resolved.

If the objections can't be resolved, they can't be. of course, I observed that the stipulation of undisputed facts is rather brief, which does not suggest to the Court that a great deal was accomplished in reaching agreement as to any of the disputed issues.

Now, you say as to the medical experts that he hasn't submitted anything?

MR. DECKER: That's correct, Your Honor.

THE COURT: Well, then, he would be limited to using treating physicians. You understand that, Captain Saudi?

MR. SAUDI; Yes, Your Honor.

THE COURT: You can only use treating physicians because they're the only ones who are exempt from the disclosure requirements, and since you haven't disclosed anything about any medical witness, you're limited to treating physicians.

MR. SAUDI: Yes, Your Honor, I understand that. And I just have to, I guess, to say that the other two physicians, they have examined me, and they've written reports. One is -- they are all -

THE COURT: We don't have to talk about it, Captain Saudi.

MR. SAUDI: Yes, sir.

THE COURT: We are not here to talk about what they

Captain Saudi has filed a proposed second amended complaint and a motion for leave to file it, and we have opposed it on largely the same grounds as we opposed the first motion to amend but also on the additional grounds of prejudice, that there is a new theory, new theories being introduced, and it is too late, it's after the close of discovery.

There is a motion for summary judgment based on issue preclusion and claim preclusion, collateral estoppel, res judicata that has been briefed, as well, and our motion to strike expert witnesses, which I summarized at the outset.

COURT: Well, the Court's rule, the part on the expert witness, I don't know what's left of that. I suspect that you've moved to strike the three that he recited. As far as Mahmoud is concerned, I wouldn't strike it because his report was two years old, and I don't know whether it's relevant to any issue in this case or not. Obviously, if it isn't, then that's the end of it.

The other two who weren't among the original 30 that he identified, I'm not sure what to say about that because I think what you say is you assume that that's where they've came from because he pick[illegible]hree out of the 30 instead of coming up with new people. I don't know what to say about that at this point.

Now, the motion for summary judgment based on res judicata, that has not been a[illegible]ed, I don't believe, has it?

Appendix J

IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF VIRGINIA
Norfolk Division

SHERIFF SAUDI, CAPTAIN,

Plaintiff, CIVIL ACTION NO. 2:03cv299

v

NORTHROP GRUMMAN CORPORATION, et al.,

Defendants.

TRANSCRIPT OF PROCEEDINGS

Norfolk, Virginia

October 12, 2004

BEFORE:THE HONORABLE HENRY C. MORGAN, JR.
United States District Judge

APPEARANCES:

SHERIFF SAUDI, CAPTAIN, pro se

BRACEWELL & PATTERSON, LLP

By: William Lewis Stauffer, Jr. R. Grant Decker

Counsel for the Defendant Newport News Shipbuilding, Inc., and Northrop Grumman Corp.

Now you may proceed with the opening statement.

CAPT. SAUDI: Okay, Your Honor. Thank you very much for allowing me to come here.

THE COURT: All right. Now, I notice that there are people seated in the courtroom. Are these witnesses?

CAPT. SAUDI: I have a court server -- the process server, Your Honor, and his name is Joe Wallower.

THE COURT: Well, the reason I ask you that is I want to know if anybody's going to ask that the witnesses be separated before the Court hears opening statements?

CAPT. SAUDI: There is no witnesses at this time, Your Honor.

THE COURT: All right. Then you may proceed.

CAPT. SAUDI: Your Honor, the whole issue is that I was doing my job working on board a ship as a boarding master, and I was transferred by crane of that ship, the ship, the name is MARINE ATLANTIC, used to be formerly known as UST ATLANTIC. The crane collapsed and dropped me about 50 feet in the water, and I got severe injuries. I was lucky and blessed that I'm still alive. I recovered some but I still have some limitations to my recovery. This has happened in 17 May of 1999, and -

THE COURT: It Happened May 17th, 1999?

CAPT. SAUDI: Yes, Your Honor.

THE COURT: All right.

CAPT. SAUDI: I have gone through several surgeries and several treatments by doctors, several doctors. I'm still under the treatment of a doctor in Houston by the name of Dr. Maffet, he is orthopaedics, and I'm still expecting another surgery from Dr. Maffet and another surgery from Dr. Gabel who is a neurologist.

The ship was built in 1979 by the drydock company in Norfolk, Virginia. I was under the understanding that there is two names for it, Newport .News Shipbuilding and Drydock, and Newport News Shipbuilding, Inc., but I think the name is -- was Newport News Shipbuilding, a Tenneco Company. It was a little bit of confusion of the names. There was an assumed name, I believe. I didn't know that at the time.

This ship, when it was built by the drydock in 1979, the drydock have vendors to -- that they would produce appurtenances for the ship. One of it is the crane, and this crane was built in by a company by the name of Appleton Machine, Inc., in Wisconsin, in Appleton, Wisconsin.

As far as I know, there is no successor for this company at this point in time. And my understanding is that the drydock have put on the guidelines and regulations and rules that govern their purchase from the vendor of which is the crane manufacturer, and the crane manufacturer, they abide by the drydock requirements.

My understanding also is that there is every --

every design have to be approved by the drydock, every drawing have to be approved, every material used have to be approved, and all the manuals have to be approved. The crane have to be up to the maritime industry requirements at that time, which is the drydock guidelines, or they were provided to be in compliance with the maritime industry.

So this sort, Your Honor, put on the burden of the drydock company, and I believe drydock have an affiliation, which is Northrop Grumman and Newport News Shipbuilding, Inc. They kind of a mergers in 2002. And it seems like they are all in a joint venture together or in a joint responsibility for whatever the drydock have done in the past or Newport News Shipbuilding, Inc.

I think by the trial and I hope that we;can prove that there was negligence on the drydock part because of the catastrophic collapse of the crane due to defects in design and lack of safety requirements required by certain rules, and that the maintenance manual was not sufficient to be able to address some of the most important fatal issues-of the failure of these parts that can cause a catastrophic events, and there was no warranty of the use of the crane for this defects or for this weak links, as I call it, and they put all that in the stream of commerce, and I was the-one who have to suffer some damages because of that.

I believe this is the brief of it, Your Honor.

if this coupling you're going to see, if it had been properly maintained, the crane would not have failed, Mr. Saudi would not have fallen into the Gulf of Mexico.

And the third, the third thing about which there is no disagreement in this case, for 13 years, almost 13 years, this ship sat in lay up in Malaysia, just sat there. Then it was overhauled at Keppel Shipyard in Singapore in 1994. And apparently for years after that, this coupling, which is the focus of this case wasn't inspected and maintained.

Those are the three things that there will be no disagreement about in this case. And so 20 years and two months after Newport News Shipbuilding and Drydock Company delivered this ship, 20 years through a succession of owners, operators, ship captains, chief engineers, deckhands, maintenance personnel, rehabilitation people, ref vation people, this crane failed because of corrosion in the coupling.

And there are other issues about which the evidence will be uncontroverted: One, as Mr. Saudi now said today for the first time, Newport News Shipbuilding and Drydock Company built this ship, the UST ATLANTIC. It then became known as the UST MARINE ATLANTIC. There is no issue about this.

Two, Newport News Shipbuilding and Drydock Company's been in business since 1886 as a shipbuilder, and it continues so today, right up the street.

what would happen if you don't lubricate the coupling. There is no allegation in the first amended complaint or in the original complaint about a redundancy or safety issue concerning an additional brake being part of a crane requirement.

THE COURT: An additional what?

MR. STAUFFER: An additional brake, b-r-a-k-e, or some other type of fail safe or redundancy system being part of this coupling mechanical arrangement. It is not his case.

THE COURT: Does that appear in any of the expert reports that were filed, timely filed in this case?

MR. STAUFFER: Yes, they are. But, again, as I said, when he was allowed -- let me finish, Mr. Saudi. When he was allowed to have additional time to come up with hip experts which you'll hear more from us about the two that he got, when those reports were delivered to us, they added, each one of them had -- one said, I have a thought, maybe there should have been a redundancy built into this thing as a safety issue. And the other side, something a little more Simple is, there should have been some type of fail safe or redundancy unit built into the crane, but that is not his case. That is not the complaint that we've been in front of in this court for the last year and a half, and Washington, D.C. for a year.

That is why I said early on we are going to object

(Witness excused.)

CAPT. SAUDI: Your Honor, I would like to address to the Court, Your Honor. I have -- I would like to subpoena three expert witness of Mr. Stauffer. I did talk about it before. I guess maybe he misunderstood me, but I sent him a letter, and he is not agreeing with me to produce these people as an expert witness for me to question.

THE COURT: Give the paper to Mr. King. Where did these names come from?

CAPT. SAUDI: This is the expert witness that Mr. Stauffer have provided to me on the 15th of September. That was the last day of discovery.

THE COURT: And you're asking that they be subpoenaed today?

CAPT. SAUDI: To come tomorrow, Your Honor, if possible.

THE COURT: Well, I'm afraid that your request is not timely. You can't file requests for subpoenas on the date of trial.

CAPT. SAUDI: I understand, Your Honor.

THE COURT: So your request to subpoena these witnesses is denied.

CAPT. SAUDI: Thank you, Your Honor. I would like to call Mr. McPhail. I'm sorry. I make mistake, Mr. Lea. I apologize. I was confusing the name, Your Honor.

MR. STAUFFER: Well, we ended up getting reports. I'm not here saying -

THE COURT: Did you get everything that you're entitled to get under the rules?

MR. STAUFFER: Yes. And we had the opportunity a week and a half ago to take their depositions. But I'm not arguing about that point. What I'm saying is this. It is a fundamental issue of fairness. We abide by the rules, we follow the rules. He was admonished on that day on August the 4th that he was going to be limited. It doesn't mean that he can then go out and expand the scope of the expert witness pool, which is what he did.

Now, I can't tell you that we lost a lot of time and effort because I didn't know about these people in the past, but the truth is we spent a lot of time when he first made his disclosures as required, we checked out every one of these people. And to the extent they looked like an expert on defective design, I called them or others called them. So when he now comes in and says, oops -

THE COURT: Well, at that point the expert disclosures were already overdue, weren't they, when we had the hearing?

MR. STAUFFER: Right. Exactly.

THE COURT: And at that point you hadn't gotten any expert disclosure?

CAPT. SAUDI: And I did ask Your Honor if -

THE COURT: And I recognize that you had other people who were experts, like doctors.

CAPT. SAUDI: Yes, sir. You allowed me that.

THE COURT: You were not limited on doctors.

CAPT. SAUDI: Yes, Your Honor. I don't know what Mr. Stauffer is trying to paint the picture, but I understand that Your Honor were trying to be fair, and knowing that I have problems with some expert witnesses because they received calls, and it is very difficult in my situation to have an expert witness go out with the bigger firms and bigger companies, and I have represented to this Honorable court three letters from three different people that they were expert witness on the list, Your Honor. I believe some of them were approached where these people have said that they have argued -- they discussed it with me. They were working with me, but they have rejected me. They don't want to work with me, period.

Bigger company like DnV and another one, Aptech, which actually after I wrote down the check and I went to give it to them, they return the check and gave it back to me. I believe at that time, and I'm not trying to -- I mean, I'm not trying to describe, Your Honor, what was in your mind when you said I will limit you to three.

Mr. Stauffer is trying to describe you, and he might

and got two people who you hadn't previously identified.

Now, when I think about this, I have to think about your status, which is not deserving of pro se status for the reasons that I've previously ruled.

Now, I don't know whether I would allow somebody proceeding pro se to do that, that is, they're brought into court because they haven't designated their experts within the time fixed by the Court, and then they come in on that day, and I give them -- I gave you an extension and you add two additional people.

Now, you didn't tell me at that hearing that you were going to seek two people that were not on your list so I didn't have an opportunity to react to that. You just did it. You just picked people that you had not previously identified.

Now, would I let an attorney do that, if you were standing there as an attorney representing somebody else? No, there is no question that I would not allow an attorney to do that. Why then should I let you do it? I've previously ruled and told you that I was ruling that you are not entitled to pro se recognition and that you had to abide by the rules of this Court. I think that came at a hearing in June, did it not?

I know counsel -- because I had actually overlooked the fact that I'd previously ruled on the issue, and it was

IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF VIRGINIA Norfolk Division

SHERIFF SAUDI, CAPTAIN,

Plaintiff, CIVIL ACTION NO. 2:03cv299

v.

NORTHROP GRUMMAN CORPORATION, et al.,

Defendants.

VOLUME II

TRANSCRIPT OF PROCEEDINGS

Norfolk, Virginia

October 13, 2004

BEFORE:THE HONORABLE HENRY C. MORGAN, JR.

United States District Judge

APPEARANCES:

SHERIFF SAUDI, CAPTAIN, pro se

BRACEWELL & PATTERSON, LLP

By: William Lewis Stauffer, Jr.

R. Grant Decker

Counsel for the Defendant Newport News Shipbuilding, Inc., and Northrop Grumman Corp.

to have him here to testify. So he now seeks to introduce his report.

Now, I said that as to Moran and Wyman, I would mark the reports tendered so that Captain Saudi could show generally what these witnesses might have said -- had the Court not sustained the objection to exclude them -- for purposes of appeal.

So I'll mark those Wyman and Moran reports as refused for the reasons stated, if you'll pass those reports forward.

(The documents were refused and marked as Plaintiff's Exhibit No. 40.)

THE COURT: As to Mahmoud -

MR. STAUFFER: He's handing up to you everything, not just Moran and Wyman.

THE COURT: All right. Well, just get Wyman's report and Moran's report out of there.

All right. You've included your letter which -

MR. STAUFFER: I have no objection to that.

THE COURT: All right. I'm going to -- a portion of Plaintiff's Exhibit 40 marked refused as Wyman and Moran excluded as expert witnesses marked for by identification for purposes of appeal, if necessary. All right. If you would clip this together and mark this as one exhibit.

The Court is not marking Dr. Mahmoud's report

he testified as to the defective design of it?

CAPT. SAUDI: Yes, sir.

MR. STAUFFER: No.

THE COURT: What did he testify to?

MR. STAUFFER: He testified to corrosion, not defect in design. That is an entirely separate issue, beside the hearsay issue. And his testimony was stricken. He was not allowed to testify in court. But that is an entirely different issue, too.

Judge Morgan, if you were to look at Dr. Mahmoud's report, with all due deference to Mr. Saudi, you will not see the word design or defect mentioned in it. He talks and concludes his letter by saying this was essentially an abject failure of maintenance, because that's what Mr. Saudi's case was in Texas. You will not find the words "design defect" in Mr. Mahmoud's report.

So we have a variety of objections to Mr. Saudi's attempt - -

THE COURT: Well, I mean, the problem is if he is seeking to introduce his deposition, and it was taken in a case in which none of the defendants were parties, upon what basis could the Court admit the deposition?

CAPT. SAUDI: I don't know, Your Honor, if I have the answer for that. I know that -

THE COURT: Well, that is why I raised it yesterday

elements of his claims. Captain Saudi's claims are for negligence, strict liability, and breach of implied warranty of merchantability. These claims have certain differences, but for all of them the plaintiff must proof that a product: One, had a defect that rendered it unreasonably dangerous for its ordinary and foreseeable use; and, two, that that defect actually caused plaintiff's injuries.

Here, Your Honor, there is no evidence of any of these elements. The product here is the crane. Captain Saudi alleges that the crane was defective because a coupling on the crane could not be properly maintained and because there was no warning that it had to be properly maintained. That's the basis of his claim for all three of the counts against these defendants.

THE COURT: Say again now.

MR. DECKER: Sure. He alleges that the crane was defective because a coupling on the crane, coupling -

THE COURT: I know. You say because the coupling wasn't maintained?

MR. DECKER: Could not be properly maintained.

THE COURT: Could not be?

MR. DECKER: Correct. That is his allegation.

THE COURT: Okay.

MR. DECKER: And because there was no warning that it had to be properly maintained. But there is no evidence

fitting as a defect, or rendered the coupling unreasonably dangerous. Argued that the spline was painted and not maintained, but that's not in evidence.

Similarly, there is no evidence that the crane did not have a redundancy system, much less that it was a defect not to -- Your Honor, bottom line here, no evidence at all of a defect. The fact that just assuming that one part of that shaft was more corroded than the other certainly does not give rise to an inerence, much less evidence, of a defect. And in addition, of course, Judge, no evidence of proximate cause.

THE COURT: All right. Well, at the beginning of this case, the Court discussed how difficult it was for an individual acting without counsel to prove this type of case. This would be a very difficult case to prove under any circumstances.

Later developments have shown that we have an individual who did have some participation from attorneys and the staff of attorneys in preparing and presenting-his case. I'm not sure whether that participation was any assistance whatsoever to the plaintiff. I can't make that determination.

But it's turned out that the plaintiff simply has not been able to prove a case. There is no evidence of why the crane fell. I have before me, and it has been mentioned,

as much as the person who assembled the product. And by assembled I mean affixed the crane to the ship, which is the only party before the Court.

It's been argued, been suggested, but not given as a basis for the defendant's motion, that he should not have used the crane as a means of transferring from one ship to another. Of course, and it's been suggested that the manual says that this shouldn't be done. But the manual is not in evidence. But were the manual in evidence, whatever it might say about using a crane to transfer from one vessel to another, the Court's not persuaded that it was negligence to use that method because no alternative has been shown. If a person is going to transfer from one ship to another at sea, I cannot conclude on the basis of; the evidence that the crane isn't the safest way to do that. In fact, I would conclude from the evidence at this point that it was far safer to use the crane than it would be to try to climb a ladder of the length necessary, or descend a ladder of the length necessary to go from the larger ship-to the tender.

So the Court does not believe that there is sufficient evidence of contributory negligence or assumption of the risk on the part of the plaintiff at this stage of the proceeding. So I would not sustain the defendant's motion on that grounds. Of course, that ground wasn't argued but it

was brought up in the course of the trial.

Also, it's been suggested that the plaintiff should have been barred from adding Newport News Shipbuilding and Drydock as a party, and what is now, I suppose, known as Northrop Grumman Newport News is not the parent company and not liable for prior acts of negligence of Newport News Shipbuilding and Drydock. It is not necessary for the Court to address that issue. The defendant has not put on its evidence as yet. However, I certainly couldn't conclude from what's before me that he shouldn't have been allowed to add Newport News Shipbuilding and Drydock, based on his testimony, without having heard from the defendant.

I would say that he did have a right to add them as a party because I don't think that the burden is on someone to call the State Corporation Commission to see f a particular entity is still a viable corporation, and quite frankly, the testimony of the witness, I don't recall the name, was it Mrs. Wood, representing the defendant, seemed suggest that the assets of Newport News Shipbuilding and Drydock had been acquired and that there was nothing left of the company at various points in its corporate history.

So at the very best, her testimony on the point would be ambiguous, but there is certainly no point, no evidence before the Court at this point that would enable the Court to find either that there is no successor liability on

Appendix L

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
NORFOLK DIVISION

CAPTAIN SHERIFF SAUDI,
Plaintiff,

VS. CIVIL ACTION NO. 2:03cv299

NORTHRUP GRUMMAN CORPORATION, ET AL,
Defendants.

PLAINTIFF, CAPTAIN SHERIFF SAUDI'S, MOTION FOR ENLARGEMENT OF TIME WITHIN WHICH TO COMPLETE RULE 26(a)(2)(B) EXPERT WITNESS DISCLOSURES

TO THE HONORABLE UNITED STATES JUDGE OF SAID COURT:

Captain Sheriff Saudi, ("SAUDI"), the Plaintiff in this, action hereby moves this Court for the entry of an Order granting him an enlargement of time Within Which to Further Supplement the Expert Opinions and Reports required by Rule 26(a)(2)(B) and, in support of said motion, would show the Court the following:

1. This Court signed a Scheduling Order on March 29, 2004, which specified a date of July 12, 2004, for expert witness "disclosures" as contemplated by Rule 26(a)(2)(B).

2. On April 1, 2004, Plaintiff Saudi served a letter on Defendant's counsel Mr. Stauffer demanding production of the documents and other information automatically required Rule 26. See attached Affidavit of Captain Sheriff Saudi in Support of the Motion to Enlarge Time, Exhibit B.

3. Again on April 6, 2004, Stauffer sent a letter acknowledging receipt of Saudi's April 1, 2004 demand, but claiming:

> I suggest we await the Scheduling Order because it will likely formally address your stated concern.

The Rule 16(b) Order did not address nor excuse Defendants' lack of compliance with Rule 26(a)(1).

4. Over two months after Stauffer's April 6, 2004 letter, Defendants, Northrop Grumman Corporation and Newport News Ship-building, Inc., finally filed what they purported to be the Rule 26(a)(1) disclosures required by the Rules. See Affidavit of Captain Sheriff Saudi, attached Exhibit A. That disclosure provided no documents whatsoever in violation of Rule 26(a)(1)(B). The discl.osure identified three witnesses, Kathleen M. Salmas, D. Wayne McPhail, and D. B. McKercher, as individuals "likely to have discoverable information" as required by Rule 26(a)(1)(A). The insurance policy in question required by Rule 26(a)(1)(D) was never produced by Stauffer despite the fact that Plaintiff submitted proposed changes to the formal order which Mr. Stauffer proposed. See Saudi's Motion to Compel, Exhibit C.

5. On July 1, 2004, Saudi served a letter notice to Mr. Stauffer that he intended to proceed with depositions. See Affidavit of Captain Saudi, Exhibit D.

6. Saudi also served a letter notice, bearing the same date, on the Defendants' counsel requesting that the Defendants produce J. H. Mullan, Secretary Newport News Shipbuilding, Inc. and Newport News Shipbuilding and Dry Dock Company, along with T. C. Schievelbein, and Linda M. Leuckhardt, the President and Vice President of Newport News Shipbuilding and Newport News Shipbuilding and Dry Dock Company. See Affidavit of Captain Saudi, Exhibit E. Defendants' response to this demand and the service of subpoenas on Mullan, McPhail, and McKercher, was the request

for more time to look into the matter on July 7, 2004. See Affidavit of Captain Saudi, Exhibit F.

7. On that same date, July 7, 2004, Saudi sent Mr. Stauffer a letter demanding that the depositions of Mullan, Schievelbein and Leuckhardt, go forward and reminding Mr. Stauffer that all of these individuals were "officers of Newport News Shipbuilding, Inc., which is a party to the suit. See Affidavit of Captain Sheriff Saudi, Exhibit G. Saudi also reiterated his demand in that July 7, 2004 letter that he receive disclosure of the documents that he had been demanding since before April 1, 2004.

8. On July 8, 2004, Defendants' counsel sent his predictable letter complaining of the form of the subpoenas, and refusing to produce Mullan, Schievelbein, and Leuckhardt. Stauffer claimed in this letter:

> Such information can be obtained without deposing senior officers, but you have made no effort whatsoever to do so given our prior designation of individuals knowledgeable regarding these relationships and the likelihood that there are other individuals with similar knowledge, your requests to involve senior officers are nothing more than efforts at harassment.

See Affidavit of Captain Sheriff Saudi, Exhibit H.

9. On the 14th day of July, 2004, Saudi attended a hearing before this Court for the purposes of determining whether the subpoenas he procured for service on the Defendants' officers would be honored. This Court "agreed" with the Defendants' argument that other individuals which the Defendants designated under Federal Rule of Civil Procedure Rule 30(b)(6) as having equivalent knowledge should be deposed other than the President, Vice President, and Secretary, of Newport News Shipbuilding, Inc.

(who held the same positions with the supposedly uninvolved company, Newport News Shipbuilding and Dry Dock Company).

10. To attend the depositions, Saudi had to travel to the Newport News, Virginia area and spend $1,000.00 for airfare, hotel, and other costs. Defendants' counsel Stauffer directed Saudi to review documents which he claimed were responsive to Saudi's subpoenas at the offices of Newport News Shipbuilding and Dry Dock.1 Saudi followed the Defendants and their counsel's directives to review the documents in question and mark the documents which he needed for the depositions. Defendants' representatives assured Saudi that these documents that Saudi marked would be copied and turned over to Saudi promptly.

11. This never occurred. Instead Saudi received no documents and was forced to proceed with the depositions= of McPhail, and McKercher without the documents. McPhail was a "fluid engineer" and had no knowledge of cranes. He claimed he didn't know who was paying his paycheck.

12. The witnesses produced by the Defendants and placed under oath on deposition, denied having the knowledge that Mr. Stauffer represented they would have. The deposition transcripts are not available yet, but will be available at a hearing on this motion and Saudi's accompanying Motion to Compel and for Sanctions.

13. As of the date of the filing of this motion, Saudi has

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1. The Court may be surprised to know that Newport News Shipbuilding, Inc. and Newport News Shipbuilding and Dry Dock Company maintain the same offices in the same building -- all under a Northrop Grumman logo.

never received the documents he especially marked for copying and production by the Defendants. Furthermore, Saudi was directed by Mr. Stauffer to search through thirty-three boxes of documents which were unorganized and which contained almost nothing relevant to Saudi's claims in this proceeding. Defendants' failure to organize the documents in question and wholesale dumping on Saudi of documents to review which were mostly irrelevant is further evidence of their intent to harass Saudi and their bad faith efforts to frustrate discovery.

14. Grumman and Newport News Shipbuilding control Dry Dock. Dry Dock must have within its possession, the original documents pertaining to the purchase, testing, installation, design, and maintenance, of the crane installed on the S/T Marine Atlantic which caused Saudi's injuries. These Defendants are required to produce such documentation they control and, furtner, are required to produce documentation concerning the model of the crane which reflect the model's repair history, history of failure, and difficulties in design and operation.

15. Saudi's expert witnesses can not give final reports concerning the defects in the design and manufacture, as well s the operation, or failure to warn of the crane which caused his injuries without having access to this material. This material is discoverable. The objections which the Defendants have made so far to discovery have been made in bad faith and in gross violation of the Federal Rules of Civil Procedure requiring production of all relevant material and information.

WHEREFORE, ABOVE PREMISES CONSIDERED, this Court should enter an order granting Saudi an enlargement of time within which to supplement expert witness disclosures he has previously made under Rule 26(a)(2)(B) to and until a date fifteen days after the Defendants have produced all the documents they are required to produce by Rule 26(a)(2)(B), 33, and 34, pertaining to the

design, manufacture, maintenance, failure, and testing of the crane that caused Saudi's injuries and the interconnection of the corporate operations between Newport News Shipbuilding, Inc., Grumman, and Newport News Shipbuilding and Dry Dock Company. Plaintiff prays for General Relief.

Respectfully submitted,

Captain Sheriff Saudi
Plaintiff In Propria Persona
5222 Spruce Street
Bellaire, Texas 77401
(713) 668-8815
(713) 668-9402 FAX

CERTIFICATE OF OPPOSITION

This motion is opposed.

Captain Sheriff Saudi

CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing document was sent to William L. Stauffer, Jr., 12355 Sunrise Valley Drive, Fifth Floor, Reston, VA 20191-3458 FAX (703-827-0545) by fax transmission AND/OR U.S. Mail, postage prepaid, on this the 27th day of July, 2004.

Captain Sheriff Saudi

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
NORFOLK DIVISION

CAPTAIN SHERIFF SAUDI,

Plaintiff,

VS. CIVIL ACTION NO. 2:03cv299

NORTHRUP GRUMMAN CORPORATION,
ET AL,

Defendants.

ORDER ON PLAINTIFF, CAPTAIN SHERIFF SAUDI'S, MOTION FOR ENLARGEMENT OF TIME WITHIN WHICH TO COMPLETE RULE 26(a)(2)(B) EXPERT WITNESS DISCLOSURES

BEFORE the Court on this the___ day of_____, 2004, came on to be heard the Motion of the Plaintiff for an Enlargement of Time Within Which to Complete Rule 26 (a)(2)(B) Disclosures and the Court, after due consideration of same, is of the opinion that relied should be granted. It is therefore;

ORDERED that Plaintiff Saudi IS GRANTED / IS NOT GRANTED an enlargement of time within which to supplement expert witness disclosures he has previously made under Rule 26(a)(2)(B) to and until a date fifteen days after the Defendants have produced all the documents they are required to produce by Rules 26(a)(2)(B), 33, and 34, pertaining to the design, manufacture, maintenance, failure, and testing of the crane that caused Saudi's injuries and the interconnection of the corporate operations between Newport News Shipbuilding, Inc., Grumman, and Newport News Ship-building and Dry Dock Company.

SIGNED on this the___ day of_____, 2004.

JUDGE PRESIDING

Appendix M

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
NORFOLK DIVISION

CAPTAIN SHERIFF SAUDI,
PLAINTIFF,

v. CIVIL No: 2:03cv299

NORTHROP GRUMMAN CORP., ET AL.,
DEFENDANTS.

ORDER

This matter is before the Court on the following motions: (1) Plaintiff's Motion for Leave to Amend Pursuant to Rule 15(c), filed June 7, 2004 (Document No. 55); (2) Plaintiffs Motion for Relief from Rule 16(b) Scheduling Order, filed June 7, 2004 (Document No. 56); (3) Plaintiffs Motion to Compel, filed June 21, 2004 (Document No. 61); (4) Plaintiffs Motion for Enlargement of Time to Make Rule 26(a)(2)(B) Expert Witness Disclosures, filed July 28, 2004 (Document No. 73); (5) Plaintiffs Motion to Compel Rule 26 disclosures and responses to Plaintiffs Interrogatories, filed July 28, 2004 (Document No. 74); (6) Defendants' Motion to Compel Answers to First Set of Interrogatories, filed July 30, 2004 (Document No. 75); and (7) Defendants' Motion to Strike Amended Designation of Expert Witnesses (Document No. 77). The Court dispenses with the recitation of procedural and factual background and refers the parties to prior Court orders.

With regard to the Plaintiffs Motion for Leave to Amend Pursuant to Rule 15(c)

(Document No. 55), the Court ADVISES both parties that they may file supplemental pleadings until August 15, 2004, at which time, the Court will decide the motion on the pleadings without oral argument.

With regard to Plaintiff's Motion to Extend Time Within Which to Complete Rule 26(a)(2)(B) Expert Witness Disclosures (Document No. 73) and Defendants' Motion to Strike Amended Designation of Expert Witnesses (Document No. 77), the Court ORDERS the following:

1. By August 12, 2004, the Plaintiff shall identify no more than three (3) expert witnesses on the sublect of the defective design of the port side handling crane, and provide all information required by FED. R. av. P. 26(a)(2)(B). The Plaintiff shall also submit, under the penalty of perjury, a statement that he has retained the services of the identified experts for use in this matter.
2. By September 12, 2004, the Defendants shall identify its expert witnesses and comply with the informational requirements of Rule 26(a)(2)(B).

With regard to Defendants' Motion to Compel Answers to First Set of Interrogatories (Document No. 75), the Court ORDERS that the Plaintiff file, under oath, supplemental disclosures to Defendants' First Set of Interrogatories by August 15, 2004.

The Court further ORDERS that the Plaintiff may depose one witness from the group of individuals recently identified by the Defendants in their Answers to the First Set of Interrogatories as having information regarding the installation of the crane. That deposition shall take place no later than September 12, 2004.

The Clerk is REQUESTED to mail a copy of this Order to the Plaintiff and all counsel of record.

It is so ORDERED.

HENRY COKE MORGAN, JR.
UNITED STATES DISTRICT JUDGE

Appendix N

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Norfolk Division

CAPTAIN SHERIFF SAUDI,
Plaintiff

v. Civil No: 2:03cv229

NORTHROP GRUMMAN CORPORATION et al,
Defendants

PLAINTIFF'S MOTION TO REQUIRE DEFENDANTS TO DESIGNATE A WITNESS, OR WITNESSES, WITH REQUISITE RELEVANT KNOWLEDGE AND TO ALLOW PLAINTIFF TO TAKE THE DEPOSITION OF SAID WITNESS(ES)

TO THE HONORABLE UNITED STATES DISTRICT COURT JUDGE:

Comes Now, Plaintiff, Captain Sheriff Saudi, who files Plaintiff's Motion to Require Defendants (Grumman and Newport News Shipbuilding and Newport News Shipbuilding and Drydock) to Designate a Witness, or Witnesses, With Requisite Relevant Knowledge and to Allow Plaintiff to Take the Deposition of Said Witness(es), and would respectfully show the following:

1. On August 5, 2004, the Honorable Judge Coke Morgan ordered "that the Plaintiff may depose one witness from the group of individuals recently identified by the Defendants in their Answer to the First Set of Interrogatories (attached hereto as Exhibit A) as having information concerning the design and manufacture of the vessel (including the purchase/installation of the subject crane). That deposition shall take place no later than September 12, 2004."

2. On August 8, 2004, pursuant to the Newport News Shipbuilding letter attached hereto as Exhibit B, which was received from Appleton Machine Company (not from Newport News and Drydock Company) and incorporated herein by reference, Plaintiff sent a letter to Defendant's attorney requesting that Defendants "designate the employee(s) of Newport News Shipbuilding and Drydock/Northrop Grumman Newport News who hold(s) the same position that R. L. Harrington, Naval Architect and Technical Manager for Newport News Shipbuilding held on April 15, 1976, and who approves the design of the Cranes to be installed on the vessels." Plaintiff further ,requested that the person, or person(s) designated "have the requisite knowledge of the safety and redundancy system for the luffing boom assembly, the safety and redundancy system for the luffing motor/drum assembly, and the requisite knowledge to testify to the design and the maintenance requirements for the spline shaft and couplings for the Maritime Industry, and who have the requisite knowledge to testify to the following specific areas:

> (1) possesses the knowledge of the AGMA requirements, and other standards and requirements in effect in the Maritime Industry in 1979;
> (2) can testify to the records and supervision concerning the procedures of installation, inspection and operation of the Cranes installed on vessels that are built by NNS and/or NNDD;
> (3) can testify to the NNS/NNDD procedures and standards for accepting a design, installing a crane and communicating with the vendor concerning any deficiencies concerning the Cranes installed on vessels that are built by NNS and/or NNDD."

3. It appears from Exhibit B that as of April 15, 1976, Newport News Shipbuilding had knowledge that the hose handling Crane(s) installed on board Hull Nos. 613C and 614C did not meet AGMA durability requirements. It is very relevant and necessary to discovery in this case that Plaintiff's Motion to Require Defendants (and prospective defendant Newport News Shipbuilding and Drydock) to Designate a Witness, or Witnesses, With the Requisite Relevant Knowledge and to Allow Plaintiff to Take the Deposition of Said Witness(es) be granted.

4. Plaintiff previously requested that Defendants designate an individual with said knowledge, which is part of the process of ordering and installing the Crane on board the UST Atlantic. Please refer to Exhibit C, attached hereto and incorporated herein by reference. Defendant's attorney argued in thq hearing of August 4, 2004, that no individuals exist from the period of 1976 - 1979, and totally failed to designate anyone with the knowledge requested. In addition, Plaintiff has deposed four individuals named by Defendants' attorney as persons with knowledge but did not really possess the requisite knowledge to testify to the specific areas of knowledge being requested. Plaintiff is very concerned due to the past experience with Newport News and Drydock that if he deposes any of the mentioned names in Exhibit A, that they would not have the requisite knowledge of the subject matter to testify. Moreover, Defendant's Attorney in his letter of August 10, 2004 (Exhibit E) surely knew that none of the names listed, contained in Exhibit A, that he produced on July 27, 2004 would meet these requirements, or he would have immediately designated said person.

5. On August 11, 2004, Plaintiff corresponded in writing with Defendant's counsel in a renewed effort to obtain a designation of a person with the requisite knowledge recited above. Please refer to Exhibit F, attached hereto and incorporated herein by reference. As time is of the essence, Plaintiff has been forced to resort to the filing of this motion.

WHEREFORE, Plaintiff prays that his motion be granted. Plaintiff prays for any further relief to which he may be entitled.

Respectfully submitted,

Captain Sheriff Saudi
c/o 5222 Spruce St.
Bellaire, Texas 77401
(713) 817-7399
(713) 668-8815 (Fax)

CERTIFICATE OF CONFERENCE

Plaintiff corresponded with William L. Stauffer, Jr. on August 8, 2004 requesting designation of a witness with knowledge in the areas listed Paragraph 2 above (Exhibit D), and in his letter dated August 10, 2004, Mr. Stauffer wrote, " we won't be "designating" additional individuals for you to depose as requested in your letter." (Exhibit E). Therefore, Defendants oppose this motion.

Captain Sheriff Saudi

CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing document has been sent to Defendants' counsel by facsimile transmission, and by U. S. Mail, postage prepaid, on this the 11th day of August, 2004.

Captain Sheriff Saudi

IN THE UNITED STATES DISTRICT COURT
FOR THE P ASTERN DISTRICT OF VIRGINIA
Norfolk Division

CAPTAIN SHERIFF SAUDI,
Plaintiff,

v. Civic Action No. 2:03CV299

NORTHROP GRUMMAN CORPORATION, *et al,*
Defendants.

DEFENDANTS' CONTINUING OBJECTIONS AND ANSWERS TO, PLAINTIFFS FIRST SET OF INTERROGATORIES

Defendants Northrop Gtumm an Corporation, (Northrop Cm~mmar,") and Newport News Shipbuilding kc. ("Newport News Shipbuilding") (sometimes collectively "Defendants"), by counsel, object to and answer "Plaintiffs First Set of Interrogatories Propounded to Defendants, Northrop Grumman Corporation, Newport News Shipbuilding Inc. and Newport News Shipbuilding and Drydock Company" ("Interrogatories") as follows.

GENERAL OBJECTIONS

First General Objection: Defendants will not answer Interrogatories that do not involve the subject matter of the pending action, are irrelevant, exceed the scope of permissible discovery, are not reasonably calculated to lead to the discovery of admissible evidence, or for which answering would be oppressive, overly burdensome and/or involve undue financial expense.

Second General Objection: Defendants will not answer Intteirogatories that (i) reflect communications between the defendants and their attorneys, (ii) reflect notes made by defendants' attorneys or other representatives or agents of interviews or conversations with

prospective witnesses, or are otherwise work-product notes, (iii) have been prepared in anticipation of litigation or trial, and/or (iv) are otherwise protected by the self-examination doctrine or privilege.

Third General Objection: Defendants object to the "Definitions" and instructions in the Interrogatories to the extent that they attempt to impose obligations upon them not provided for by the Federal Rules of Civil Procedure and/or the Local Rules of this Court. Defendants will respond to the Interrogatories in accordance with the requirements of those Rules.

Fourth General Objection: Defendants will not answer Interrogatories where the burden of deriving, ascertaining or securing same is substantially the same for plaintiff as for defendants. Moreover, and without limiting the generality of the foregoing, the Defendants will not answer Interrogatories as to which the answers are already well known by plaintiff who has spent years in at least five (5) other suits pertaining to the same May 17, 1999 incident.

Fifth General Objection: Defendants object to any Interrogatories that exceed the limitation on the number of interrogatories permitted under the Federal Rules of Civil Procedure.

Sixth General Objection: Defendants object to plaintiffs' Interrogatories directed to a non-party, Newport News Shipbuilding and Dry Dock Company, the manufacturer of the subject vessel.

CONTINUING OBJECTIONS AND ANSWERS

Interrogatory No. 1. Please identify and list the names, current addresses and current telephone numbers of all witnesses having knowledge of relevant facts concerning the claims or causes of action described in Plaintiffs Complaint, or the defenses of any of the Defendants, a brief synopsis of the expected testimony from all such witnesses, and state whether or not, with

respect to each such witness, such witness has provided a written statement.

Answer: Without waiver of Specific Objection No. 1 and the General Objections previously incorporated by reference, Newport News Shipbuilding and Dry Dock Company ("Dry Dock") was the manufacturer of the vessel when. it was completed and delivered in 1979. Neither Northrop Gnimmen nor Newport News Shipbuilding have any employees likely to have discoverable information that may be used to support the various defenses concerning the design and manufactture of the vessel (including the purchase/iinstallation of the subject portside hose handling crane), except for hleen Salinas and Kathy Owens as their testimony would concern the purported "successor" liability. Ms. Salinas' and Ms. Owens' addresses and telephone numbers are as follows:

Kathleen M. Salinas
Assistant Secretary
Northrop Grumman Corporation
1840 Century Park East
Century City, CA 90067
(310) 201-3000

Kathy S. Owens Legal Assistant
Northrop Grumman Corporation
4101 Washington Avenge
Newport News, VA 23607
(757) 380-2000

Ms. Salinas' expected testimony has been previously provided in the form of an Affidavit Ms. Owens' expected testimony would be similar to that provided by Ms. Salinas and in the Affidavit previously provided from Mr. Gregory L. Carey.

Information concerning the design and manufacture of the vessel (including the purchaselufstallation of the subject portside hose handling crane) would necessarily involve employees of Dry Dock. Because Dry Dock's involvement ended in 1979 with completion and delivery of the vessel,

many of the individuals with knowledge of the vessel and/or the crane have either retired, left the employment of Dry Dock, or are deceased

Notwithstanding the foregoing, it is believed that the following Dry Dock Company employees (past or present) may have information concerning the design and manufacture of the vessel (including the purchase/installation of the subject crane):

1. D. Wayne McPhail
   4101 Washington Avenue
   Newport News, VA 23607
   (757) 380-2000

   Mr. McPhail has already been deposed by plaintiff.

2. D.B. McKercher
   4101 Washington Avenue
   Newport News, VA 23607
   (757) 380-2000

   Mr. McKercher has already been deposed by plaintiff.

3. Harry Henkel (retired)
   address believed to be
   850 Denbigh Boulevard
   Newport News, VA 23608

   Mr. Henkel had responsibility, as a supervisor, for deck machinery, including the hose handling crane.

4. Thomas Koger
   4101 Washington Avenue
   Newport News, VA 23607
   (757) 380-2000
   It is believed Mr. Koger worked in the commercial

engineering division/Machine Department as a senior designer, primarily responsible for main propulsion issues. When Mr. Henkel retired, Mr. Koger took over Mr Henkel's responsibilities although the technical design work of deck machinery was essentially completed.

5. M. L. Miley (retired)
address believed to be
1190 Ramble Road
Virgilina, VA 24598

It is believed Mr. Miley was a senior test technician and part of the Surface Ship Test Department, which would have been responsible for testing of all machinery.

6. A. C. Howell (retired)
address unknown at present

It is believed that Mr. Howell was the machinery installation group supervisor. His group is believed to have been responsible for the erecting installation of the subject crane.

7. Robert Lea
4101 Washington Avenue
Newport News, VA 23607
(757) 380-2000

It is believed that W. Lea was part of the Test Group of the Surface Ship Test Department This Group would have tested, among other things, the cranes installed on the vessel. It is further believed W. Lea would have information regarding the practice of reviewing manufacturers' manuals, establishment of

test procedures for the equipment, and the testing itself.

8. Malvin "Manny" Moore (retired)
address unknown at present

It is believed that W. Moore may have been with the Hull Fitting Section responsible for purchase of the subject crane.

Interrogatory No. 2. Please list the names, current addresses, and current telephone members of all expert witnesses who may testify on behalf of Defendant, Northrop Grumman Corporation, Newport News Shipbuilding, Inc, and prospective Defendant, Newport News Shipbuilding and Dry Dock Company, at any trial of this case, and include a description of the credentials of such expert witnesses) and a short summary of the opinions or conclusions held by such expert witness(s).

Mr. Thomas J. Wickman
Appleton Machine Company
Post Office Box 2339
Appleton, Wisconsin 54911

613C/C2000
April 15, 1976

Subject: 390, 000 DWT Bulk Oil Carriers, Our Hulls 613C, 614C and 615C - Hose Handling Crane, Our Purchase Order 613C-2000-C1

Enclosure:
(1) One Copy of Your Stress Calculations for Hose Handling Crane (Marked in Red)

Dear Sir:

We have reviewed enclosure (1) and have marked numerous corrections in red. We find that the luffing and hoisting winch gears do not meet AGMA durability requirements. Also L. S. and Intermediate pinions exceed 40% of Yield Strength under normal operation. The slewing drive gears do not meet AGMA requirements for either fatigue or durability.

After you have reviewed enclosure (1), and if you agree with our markings, please modify enclosure (1) and any affected drawings and resubmit same. If you disagree with the markings, please consult us promptly.

Work is not released except for the turntable bearing which was previously released.

If you wish to communicate by phone relative to this order, please call Mr. H. A. Henkel, Jr., at (804) 380-7366 for technical questions and Mr. G. S. Bayton at (804) 380-4906 for all other matters including pricing and delivery.

The action taken by this letter is considered to be within the

scope of the subject purchase order and does not authorize any delay in delivery or additional cost. If you do not concur, please notify the buyer in charge of this order within 30 days stating your reasons and the changes you feel necessary to accomplish the work required.

Your early action will be appreciated.

Yours very truly,

R. L. Harrington
Naval Architect and Technical Manager

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRITC OF VIRGINIA
NORFOLK DIVISION

CAPTAIN SHERIFF SAUDI
Plaintiff,

vs. CIVIL ACTION NO. 2:03cv299

NORTHRUP GRUMMAN
CORPORATION, ET AL
Defendants.

PLAINTIFF, CAPTAIN SHERIFF SAUDI'S NOTICE OF DEPOSITION WITH SUBPOENA DUCES TECUM

To: The Designated Agent(s) of Newport News Shipbuilding and Drydock Company (NNDD)/Northrop Grumman Newport News (NG) who are in charge of the records and supervision concerning the installation, inspection, and operation of the Crane while the vessel was at NNS (Newport News Shipbuilding, Inc.) and/or NNDD and who have knowledge concerning standards, memorandums and warnings concerning the Cranes installed on the S/T Marine Atlantic, fka UST Atlantic while it was being constructed, and post-delivery to present.

PURSUANT to Rule 30(a)(1) and (b)(6) of the Federal Rules of Civil Procedure, you are hereby placed on notice that Plaintiff, Captain Sheriff Saudi, will take the deposition of the Designated Agent(s) of Newport News Shipbuilding and Drydock Company/Northrop Grumman Newport News, whose address is 4101 Washington Avenue, Newport News, Virginia 23607, on the 23rd day of July, 2004, at 10:00 o'clock a.m. at the Clarion James Madison Hotel located at 345 Granby, Norfolk, Virginia 23508,

Said deposition shall continue from day to day until completed.

You are further placed on notice that Plaintiff demands under Rule 30(b)(6) that the corporation, Newport News Shipbuilding and Drydock Company/Northrop Grumman Newport News, designate "one or more officers, directors, or managing agents, or other persons who consent to testify on its behalf..." concerning the following matters:

> Records and supervision concerning the installation, inspection, and operation of the Crane while the vessel was at NNS and/or NNDD, and standards, memorandums, and warnings concerning the Cranes installed on the SIT Marine Atlantic, fka UST Atlantic while it was being constructed, and post-delivery to present.

A Subpoena Duces Tecum is demanded under the Rules and the Designated Agent(s) of Newport News Shipbuilding and Drydock Company/Northrop Grumman Newport News is directed to produce the following tangible items and evidence on July 20th, 2004, at 10:00 Am at the Law Library at Newport News Shipbuilding & Dry Dock Company offices at 4101 Washington Avenue, Newport News, Virginia.

SEE ATTACHED EXHIBIT 'A' SUBPOENA DUCES TECUM

Pursuant to Rule 30(b)(2) Plaintiff states that the deposition in question will be taken by stenographic means and/or by video recording which will be made available to any requesting party for the purposes of making arrangements for transcription.

Respectfully submitted,

_____

Captain Sheriff Saudi
Plaintiff in Propria Persona
5222 Spruce Street
Bellaire, Texas 77401
(713) 817-7399
(713) 668-9402 - Facsimile

CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing document was sent to William L. Stauffer, Jr., 12355 Sunrise Valley Drive, 5th Floor, Ruston, VA 20191-3458, Facsimile (703) 827-0545 by facsimile transmission and/or U.S. Mail, postage prepaid, on this the 13th day of , July 2004.

_____

Captain Sheriff Saudi

EXHIBIT `A'
SUBPOENA DUCES TECUM

Plaintiff requests information concerning the design and manufacture of the vessel, including the purchase/installation of the subject crane, warnings, follow-ups, and memorandums about the portside and starboard hose handling Cranes in issue.

a. All documents that relate or refer to the Crane (ABS ID#7900542) on the S/T Marine Atlantic, fka UST Atlantic in any way;

b. All documents prepared, received by, or sent from Newport News Shipbuilding, Inc. (NNS) and/or Newport NewvShipbuilding and Drydock Company (NNDD) to the original Crane manufacturer in Wisconsin, and any/or all operators/managers of the ship, including, but not limited to, (1) Marine Transport Lines, Inc. and Marine Transport Corporation, (2) Acomarit Services Maritimes,: S.A. Geneva, Switzerland, or any of its subsidiaries, (3) Marine Atlantic Ltd., and/or any company or organization involved in the installation, inspection, or operation of the Crane while the vessel was at NNS and/or N DD, including, but not limited to all documents prepared, sent or received by NNS and/or NNDD , including internal documents making any reference to the Crane, and any an d all reports and correspondence sent or received by NNS and/or NNDD making any mention of the Crane, either directly or indirectly (e.g. any documents, reports, or correspondence referring to "Cranes" on the S/T Marine Atlantic, aka UST Atlantic, generally and therefore referring to "the Crane");

c. All documents that relate or refer to the standards or procedures for testing the Crane or any of its components (e.g. cables, gears, or splining);

d. Any and all standards that refer or relate to: (a) the frequency of inspections and/or testing of cranes such as the Crane at issue; and (b) the method of testing and/or

inspecting such cranes;

e. Any documents that refer or relate to the work done by any contractor, subcontractor, or other company or organization that was involved in any way with installing the Crane on the Ship, including contracts, letters, inspections, complaints, agreements, or meeting notes;

f. Any documents sent by NNS and/or NNDD to Appleton Machine Co. of Appleton, Wisconsin, or received by you from Appleton Machine Co., that refer or relate in any way to the Crane (including references to all or some of the Ship's cranes, if that includes the Crane;

g. Any documents sent by NNS and/or NNDD to the original Crane manufacturer in Wisconsin, and any/or all operators/managers of the ship, including, but not limited to, (1) Marine Transport Lines, Inc. and Marine Transport Corporation, (2) Acomarit Services Maritimes, S.A. Geneva, Switzerland, or any of its subsidiaries, (3) Marine Atlantic Ltd., and/or any company or organization involved in the installation, inspection, or operation of the Crane while it was at NNS and/or NNDD, that refer or relate in any way to the portside and starboard hose handling Cranes installed on the S/T Marine Atlantic, fka UST Atlantic.

William L. Stauffer, Jr.
Bracewell & Patterson, L.L.P.
Sunrise Technology Park
12355 Sunrise Valley Drive, Suite 500
Reston, Virginia 20191-3458

August 8, 2004

Re: Saudi v. Northrop Grumman Corporation, et al, No 2:03cv299, in the USDC for the Eastern District of Virginia, Norfolk Division

Dear Mr. Stauffer:

For deposition purposes, please designate by name, address and telephone number the employee(s) of Newport News Shipbuilding and DcydocklNorthrop Grumman Newport News who hold(s) the same position that R. L. Harrington, Naval Architect and Technical Manager for Newport News Shipbuilding held on April 15. 1976, and who approves the design of the Cranes to be installed on the vessels.

The person, or persons, whom you designate should have the requisite knowledge of the safety and redundancy system for the lulling boom assembly, the safety and redundancy system for the luffing motor/drum assembly, and the requisite knowledge to testify to the design and the maintenance requirements for the spline shaft and couplings for the Maritime Industry, and who have the requisite knowledge to testify to the following specific areas:

(1) possesses the knowledge of the AGMA requirements, and other standards and requirements in effect in the Maritime Industry in 1979;

(2) can testify to the records and supervision concerning the procedures of installation, inspection and operation of the Cranes installed on vessels that are built by NNS and/or NNDD.

(3) can testify to the NNS/NNDD procedures and standards for accepting a design, installing a crane and communicating with the vendor concerning any deficiencies concerning the Cranes installed on vessels that are built by NNS and/or NNDD.

If you believe that there is no one person who possesses this information, please name the persons who have the knowledge, and specify what knowledge each person possesses. Judge Morgan ordered one more deposition. If there is no one person with the requisite knowledge to testify to these specific areas, then it will necessitate that I respectfully request from the Honorable Judge Morgan to allow more than one deposition.

The person, or persons, will be asked to provide documents to support their testimony, which will be required tluee days before their depositions.

As time is of the essence, it is mandatory that you and I agree to a close date for the taking of the deposition(s).

Sincerely,

Captain Sheriff Saudi

August 10, 2004

Via Facsimile and First Class Mail (713.661.6239)

Mr. Sheriff Saudi
5222 Spruce Street
Bellaire, TX 77401

Re: Saudi v. Northrop Grumman Corporation, et al, No. 2:03cv299, in the United States District Court for the Eastern District of Virginia, Norfolk Dilion

Dear Mr. Saudi:

I have your letter regarding the deposition of designated employees) of "Newport News Shipbuilding and DrydoekfNorthrop Grumman Newport News" who hold the same position as R L. Harrington. You state that "Judge Morgm ordered one more deposition."

I'm afraid your recollection of last Wednesdays hearing is in error. On page 26 of the hearing transcript, you told the court that you had been given "maybe in the last two days another names of some witnesses that they probably would be able to justify the guarding something about installation of the crane. And that would help basically to have expert witness make his opinion final." (See lines 20-24).

Those names pertained to defendants' answers to interrogatories.

Ultimately, Judge Morgan said "1'll let you take the deposition of any one of those witnesses that you can find" (See page 31, lines 23-24). He further stated "But I'm not going to extend

your time for your expert's report on that basis. And you only take one of them. And if you can find them, then you can take their deposition at any time prior to September 12th." (See page 32, lines 1-4). In the Court's Order entered August 5, Judge Morgm ordered that you "may depose one witness from the group of individuals recently identified by the Defendants in their Answers to the First Set of Interrogatories as having information regarding the installation of the crane."

If you wish to identify one deponent from defendants' answers to interrogatories; I'll be pleased to discuss a mutually convenient deposition date. If it is a current Dry Dock Co employee, Fll also be able to check their availability.

In any event, we won`t be "designating" additional individuals for you to depose as requested in your letter.

We look forward to receiving by Thursday, August 12, your expert report(s), as required by the Rule 15(b) Scheduling Order, FRCP 26(a)(2)(B), and the Court's Order entered August 5.

Thank you.

Very truly yours,

Bracewell & Patterson, L.L.P.

William L. Staffer, Jr.

August 11, 2004

William L. Stauffer, Jr.
Bracewell & Patterson
Sunrise Technology Park
12355 Sunrise Valley Drive, Suite 500
Reston, Virginia 20191-3458

Re: Saudi v. Northrop Gmsunan Corporation, et al, No. 2:03cv299, in the United States District Court fox the Eastern District of Virginia, Norfolk Division

Dear Mr. Stauffer:

I have received your letter dated August 10, 2004 in regard to a further deposition. regret that you are not in agreement with me to produce one (1) more designated person(s) as per my written request of August 8, 2004. The testimony of this designated person(s) is mandatory in this case, as it pertains to the purchase of the hose handling Crane in question, as well as the procedure for its installation on the vessel, UST Atlantic.

As you mentioned to me before the hearing on August 4, 2004 in front of the Honorable Judge Morgan nobody who was involved in the purchase and installation of the crane is available at Newport News Shipbuilding and Dry Dock, because either they have died. retired or are no longer employed by the company.

Your refusal to designate such person(s) leaves me no other alternative than to respectfully request from the Honorable Judge Morgan to issue an order requiring you to produce a designated person, who has not died, retired or is no longer employed. who is in the same position as R. L. Harrington, who was the Naval Architect and Technical Manager for

Newport News Shipbuilding on April 15, 1976 for a deposition.

Sincerely,

Captain Sheriff Saudi

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Norfolk Division

CAPTAIN SHERIFF SAUDI,
Plaintiff

v. Civil No: 2:03cv229

NORTHROP GRUMMAN CORPORATION
Defendants

ORDER ON PLAINTIFF'S MOTION TO REQUIRE DEFENDANTS TO DESIGNATE A WITNESS OR WITNESSES, WITH REQUISITE RELEVANT KNOWLEDGE AND TO ALLOW PLAINTIFF TO TAKE THE DEPOSITION OF SAID WITNESS(ES)

On this day the Court considered Plaintiffs Motion to Require Defendants (Grumman and Newport News Shipbuilding and Newport News Shipbuilding and Drydock) to Designate a Witness, or Witnesses, With Requisite Relevant Knowledge and to Allow Plaintiff to Take the Deposition of Said Witness(es), and the Court, after considering said motion, and any responsive pleadings on file, is of the opinion that the motion should be granted. It is therefore

1. ORDERED that on or before the__day of_____, 2004, Defendants. Grumman and Newport News Shipbuilding and Newport News Shipbuilding and Drydock shall Designate a Witness, or Witnesses, who "have the requisite knowledge of the safety and redundancy system for the luffing boom assembly, the safety and redundancy system for the lulling motor/drum assembly, and the requisite knowledge to testify to the design and the maintenance requirements for the spline shaft and couplings for the Maritime Industry, and who have the requisite knowledge to testify to the following specific areas:

(1) possesses the knowledge of the AGMA requirements, and other standards and requirements in effect in the MaritimeIndustry in 1979;

(2) can testify to the records and supervision concerning the procedures of installation, inspection and operation of the Cranes installed on vessels that are built by NNS and/or
NNDD;

(3) can testify to the NNS/NNDD procedures and standards for accepting a design, installing a crane and communicating with the vendor concerning any deficiencies concerning the Cranes installed on vessels that are built by NNS and/or.
NNDD.

2. ORDERED that on or before the__day of_____, 2004, Plaintiff shall take the deposition of the person so designated by Defendants.

Signed on this the__day of_____, 2004.

_____
United States District Court Judge

No. 05-1559

FILED
JUN 28 2006
OFFICE OF THE CLERK
SUPREME COURT, U.S.

In The Supreme Court of the United States

CAPTAIN SHERIFF SAUDI,
Petitioner,

v.

NORTHROP GRUMMAN CORPORATION; NEWPORT NEWS SHIPBUILDING INC.; KEPPEL GROUP CORPORATION, d/b/a Keppel Offshore & Marine, Limited, d/b/a Keppel Shipyard (Pte.), Ltd.,
Respondents.

ON PETITION FOR WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT

BRIEF IN OPPOSITION TO PETITION FOR A WRIT OF CERTIORARI

John M. Ryan
Counsel of Record
VANDEVENTER BLACK LLP
500 World Trade Center
Norfolk, VA 23510
(757) 446-8600

Counsel for Respondents
Keppel Group Corporation,
d/b/a Keppel Offshore and Marine, Limited,
d/b/a Keppel Shipyard (Pte.), Ltd.

THE LEX GROUP DC • 1750 K Street, NW • Suite 475 • Washington, DC 20006
(202) 955-0001 • (800) 815-3791 • Fax: (202) 955-0022 • www.thelexgroupdc.com

QUESTION PRESENTED

Is a Federal Court required to transfer venue of an action where the party requesting the changes has not filed a Motion to Transfer and has not established that the court to which the transfer was sought, would have jurisdiction.

CORPORATE DISCLOSURE STATEMENT

Keppel Group Corporation, a/k/a Keppel Corporation Limited ("KCL") is a publicly held corporation listed on the Singapore Stock Exchange. KCL is the ultimate parent of Keppel Offshore and Marine Limited, which owns 100% of Keppel Shipyard Ltd. a/k/a Keppel Shipyard (Pte.), Ltd. Four institutional investors own ten percent or more of KCL as follows: Temasek Holdings (Pte.), Ltd.; DBS Nominees Pte. Ltd. (wholly owned by publicly listed DBS Bank Limited); Raffles Nominees Pte. Ltd. and Citibank Nominees Singapore Pte. Ltd. Each of the four investors are private Singapore corporations.

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RULE

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STATEMENT OF THE CASE

Petitioner, Captain Sheriff Saudi ("Saudi") alleges that he sustained personal injuries in international waters as a result of the negligence of respondents Keppel Group Corporation and its affiliated entities Keppel Offshore & Marine, Limited and Keppel Shipyard (Pte.), Ltd. ("Keppel"). Saudi has made similar allegations against co-respondent, Northrop Grumman, etc., however the issues raised as grounds for granting a Writ of Certiorari are different as between the Respondents.

Saudi relied upon Rule 4(k)(2) of the Federal Rules of Civil Procedure as the sole basis for jurisdiction over Keppel in Virginia. The District Court ruled that Saudi failed to establish personal or general jurisdiction and dismissed the suit against Keppel. This ruling is not the subject of the Petition. When District Court Judge Morgan, in open court

announced his intention to dismiss the case against Keppel for lack of personal jurisdiction, Saudi stated, "Your Honor, I understand your Order for granting the Motion to Dismiss. Is that also allowing me to be able to transfer it to Brownsville?" (Pet. App. 63a.) The basis for Saudi's Petition as it relates to Keppel is limited to the Court's failure to transfer the action to Texas. Saudi, in his appendix, fails to print the colloquy that led up to the quote. Suffice it to say that Saudi did not, at that point, or at any other point in the proceedings, file or verbally make a motion for a transfer.

It is settled that transfers will be granted only where personal jurisdiction does not exist in the transferor court and it is affirmatively shown to exist in the transferee forum. See In re Carefirst of Maryland, Inc., 305 F.3d 253, 255-56 (4th Cir. 2002).

As noted by the Fourth Circuit in its opinion below, "Captain Saudi has never shown that suit against Keppel could have been brought in Texas. 28 U.S.C. § 1406(a), see also City of Va. Beach v. Roanoke River Basin Ass'n, 776 F.2d 484, 489 (4th Cir. 1985)." (Pet. App 8a.)

Saudi erroneously rests his argument on cases addressing a factor related to the second requirement of § 1406(a), that a litigant's statute-of-limitations problem should be included within a court's calculus of whether a § 1406(a) transfer is "in the best interest of justice." As noted by the Fourth Circuit, no Motion to Transfer was made and no showing was made that the transferee forum would have jurisdiction, thus the issue of the statute of limitations was irrelevant. Saudi's pinpoint cite within Shushan of the Goldlawr case is not a point of contention in this case either. Carteret Sav. Bank,

FA v. Shushan, 919 F.2d 225, 228 (3d Cir. 1990) (citing Goldlawr, Inc. v. Heiman, 369 U.S. 463 (1962) (upholding that a court has the power to transfer a case even though it lacks personal jurisdiction over a defendant)), cert. denied, 506 U.S. 817 (1992).

REASONS WHY THE PETITION SHOULD BE DENIED

Saudi makes no claim that there is a conflict between the circuits with regard to the basis for a transfer pursuant to § 1406(a) and the Fourth Circuit expressly held that the District Court did not abuse its discretion in refusing to transfer.

CONCLUSION

The petition fails to establish a basis for granting certiorari. The rejection of Saudi's suggestion that a transfer might be "allowed" is fully supported by the law and does not raise any issues of general importance. The Petition should be denied.

Respectfully submitted,

John M. Ryan
Counsel of Record
VANDEVENTER BLACK LLP
500 World Trade Center
Norfolk, VA 23510
(757) 446-8600

Counsel for Respondents
Keppel Group Corporation,
d/b/a Keppel Offshore and Marine, Limited,
d/b/a Keppel Shipyard (Pte.), Ltd.

(2)

No. 05-1559

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In The Supreme Court of the United States

CAPTAIN SHERIFF SAUDI,
Petitioner,

v.

NORTHROP GRUMMAN CORPORATION; NEWPORT NEWS SHIPBUILDING INC.; KEPPEL GROUP CORPORATION, d/b/a Keppel Offshore & Marine, Limited, d/b/a Keppel Shipyard (Pte.), Ltd.,
Respondents.

ON PETITION FOR WRIT OF CERTIORARI
TO THE UNITED STATES COURT OF APPEALS FOR THE
FOURTH CIRCUIT

BRIEF IN OPPOSITION TO PETITION FOR A WRIT OF CERTIORARI

R. Grant Decker
Counsel of Record
William L. Stauffer, Jr.
MILES & STOCKBRIDGE P.C.
1751 Pinnacle Drive, Suite 500
McLean, Virginia 22102
(703) 903-9000

Counsel for Respondents
Northrop Grumman Corporation and
Newport News Shipbuilding Inc.

THE LEX GROUP DC • 1750 K Street, NW • Suite 475 • Washington, DC 20006
(202) 955-0001 • (800) 815-3791 • Fax: (202) 955-0022 • www.thelexgroupdc.com

QUESTION PRESENTED

Respondents, Northrop Grumman Corporation ("NG") and Newport News Shipbuilding Inc. ("NNS"), submit that the following question more accurately reflects the issue concerning Federal Rule of Civil Procedure 37(c)(1) presented in the Petition.

1. Whether the district court's exclusion of two of Petitioner's expert witnesses as a sanction under Federal Rule of Civil Procedure 37(c)(1), where Petitioner failed to timely disclose those witnesses, was an abuse of discretion. [1]

[1] A second issue raised in the Petition concerns Keppel Group Corp. and Keppel Shipyard (Pte), Ltd. (who were dismissed prior to the trial for lack of personal jurisdiction), and is not addressed herein.

CORPORATE DISCLOSURE STATEMENT

NG is the parent company of NNS. There is no parent or publicly held company owning 10% or more of NG.

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STATEMENT OF THE CASE

Petitioner, Captain Sheriff Saudi ("Captain Saudi"), asserted various claims based on products liability theories and sought damages for personal injuries he allegedly sustained when a crane, mounted on a vessel, the S/T MARINE ATLANTIC, collapsed while Captain Saudi was being lifted onto another vessel. Captain Saudi's claims against NG and NNS arise from purported defects in the design and manufacture of the crane.[2]

Trial on Captain Saudi's claims against NG and NNS was held on October 12 and 13, 2004, without a jury. The district court granted NG's and NNS's motion to strike two expert witnesses not originally designated by Captain Saudi. After the close of Saudi's case, the district court entered judgment for NG and NNS pursuant to Rule 52(c).[3] *Resp. App.* pp. 1-16.

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[2] Newport News Shipbuilding and Dry Dock Company ("Dry Dock") constructed the S/T MARINE ATLANTIC. The crane, manufactured by Appleton Marine in Wisconsin, was installed on the vessel by Dry Dock some time in or prior to 1979. Dry Dock is a wholly owned subsidiary of NNS, which is a wholly owned subsidiary of NG.

[3] Judgment also was entered in favor of Dry Dock, which Captain Saudi did not appeal. The Appendix submitted with the Petition does not accurately reproduce the record, at least with regard to the judgment entered by the district court. Appendix E, at page 56a – purportedly the Amended Judgment in a Civil Case entered November 19, 2004 – states that judgment was entered only in favor of NG and NNS, whereas, in fact, the Amended Judgment states that judgment was entered in favor of Dry Dock as well. The Amended Judgment is included in the Respondent's Appendix submitted herewith

The district court granted the motion to strike the two experts because Captain Saudi violated an order regarding his experts entered August 5, 2004. *DE* 84. The August 5 Order, in turn, was the result of Captain Saudi's failure to comply with the district court's Rule 16(b) Scheduling Order.[4] *DE* 43

The Scheduling Order required Captain Saudi to identify his expert witnesses by June 11, 2004 and to provide Rule 26(a)(2)(B) expert witness reports

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(*Resp. App.* pp. 1-2) (the Appendix submitted with the Petition is referred to herein as "*Pet. App.*" and Respondent's Appendix as "*Resp. App.*" – portions of the record not included in either appendix are cited to docket entries of the district court, referred to as "*DE,*" and the Fourth Circuit Supplemental Joint Appendix, referred to as "*Fourth Cir. Supp. App.*"). The Appendix submitted with the Petition also failed to include the district court's Order entered January 28, 2005 explaining its basis for entering judgment pursuant to Rule 52(c), and is included in Respondent's Appendix (*Resp. App.* pp. 3-16).

[4] Captain Saudi's violations of the Scheduling Order and the August 5 Order were not his only failures to comply with orders and rules. As noted by the United States Court of Appeals for the Fourth Circuit in its opinion affirming the district court's judgment, written by Judge J. Harvie Wilkinson, III, Captain Saudi's "actions in this litigation presented particular challenges for the district court." *Saudi v. Northrop Grumman Corp.*, 427 F.3d 271, 277-78 (4th Cir. 2005). The Fourth Circuit further stated: "The record is replete with instances when Captain Saudi failed to abide by the district court's rules, including missing deadlines, filing briefs on the day of hearings, and seeking the assistance of counsel while claiming to be proceeding *pro se*." 427 F.3d at 278.

and other disclosures by July 12, 2004.[5] Captain Saudi identified 30 expert witnesses by the June 11 deadline. On July 12 – the deadline for the reports and other disclosures – however, Captain Saudi merely served an "Amended Designation of Experts" that was the same as the document identifying the 30 expert witnesses he had previously served (except that the Amended Designation listed only 28 of the 30 expert witnesses).[6] The Amended Designation failed to comply even minimally with the requirements of Rule 26(a)(2)(B) (among other omissions, it provided no opinions, no bases for opinions, and no reports).

Two weeks after his disclosures were due, Captain Saudi filed a Motion to Extend the Time Within Which to Complete Rule 26(a)(2)(B) Expert Witness Disclosures ("Rule 26(a)(2)(B) Motion"). *Pet. App.* L, pp. 100a – 105a. In his Petition, Captain Saudi wholly mischaracterizes his Rule 26(a)(2)(B) Motion, describing it as "a Motion seeking an enlargement of time within which to *disclose his*

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[5] The Scheduling Order also stated that "[d]iscovery shall be commenced timely." Nevertheless, Captain Saudi served no discovery on NG or NNS until nearly three months after the entry of the Scheduling Order and within six weeks of the discovery cutoff. In his Petition, Captain Saudi complains that he filed a Motion for Relief from the Scheduling Orders that was not ruled on by the district court. He, however, did not set the motion for hearing or otherwise arrange for its disposition as required by a local rule of court. *See* Local Civil Rules, United States District Court for the Eastern District of Virginia ("Local Rules"), Rule 7(e).

[6] A copy of the Amended Designation of Experts is Exhibit 1 to Brief in Support of Defendants' Motion To Strike Plaintiff's Amended Designation of Expert Witnesses. *DE* 78

experts under Rule 26 F.R.Civ.Proc." (Pet. p. 5) (emphasis added). His Rule 26(a)(2)(B) Motion, however, nowhere mentions more time to disclose his experts. Instead, he asked for more time "*to Further Supplement the Expert Opinions and Reports* required by Rule 26(a)(2)(B)," arguing that, at that point in time "*Saudi's expert witnesses cannot give final reports* concerning the defects in design and manufacture . . . ," and he concluded by requesting more time "to supplement expert witness disclosures he has previously made under Rule 26(a)(2)(B) . . . ." (emphasis added). *Pet. App.* L, pp. 100a, 104a.

In response to Captain Saudi's Rule 26(a)(2)(B) Motion, NG and NNS filed a Motion to Strike Plaintiff's Amended Designation of Expert Witnesses, on grounds that, *inter alia*, the designation failed to provide the Rule 26(a)(2)(B) information. *DE* 77, 78.

On August 4, 2004, the district court held a hearing on the motions. At the hearing, consistent with his Rule 26(a)(2)(B) Motion, Captain Saudi requested additional time to provide expert reports. At no point during the hearing did he ask for permission to identify additional experts, or to file reports for individuals that he had not designated. *DE* 85.

In ruling on the motions, the district court stated: "I'm going to give you until August 12th to file the necessary information on your experts" - the experts Captain Saudi had already identified. The court then imposed its sanction: "You are going to be limited to three experts . . . ." *Pet. App.* H, p. 72a,

lines 2-13. The district court's August 5 Order, entered the day after the hearing, reflects that ruling:

> With regard to Plaintiff's Motion to Extend Time Within Which to Complete Rule 26(a)(2)(B) Expert Witness Disclosures, and Defendants' Motion to Strike Amended Designation of Expert Witnesses, the Court Orders the following: By August 12, the Plaintiff shall identify no more than three (3) expert witnesses on the subject of the defective design of the port side handling crane, and provide all the information required by Rule 26(a)(2)(B).

DE 84.

Captain Saudi's mischaracterization of his Rule 26(a)(2)(B) Motion is significant. His Petition is based on the false premise that he was permitted more time to disclose his experts. Yet, in his Rule 26(a)(2)(B) Motion he did not request more time to disclose his experts – rather, he only requested, and the district court only permitted, more time to file reports and the other information required by Rule 26(a)(2)(B).[7]

[7] Rule 26(a)(2)(*A*) concerns the *identification* of expert witnesses, while 26(a)(2)(*B*) concerns the disclosure of *expert witness reports and other information* concerning the expert witnesses. Captain Saudi's Rule 26(a)(2)(B) Motion does not even mention Rule 26(a)(2)(A).

In response to the district court's August 5 Order, Captain Saudi submitted a letter dated August 12, 2004 with materials concerning three purported experts, two of whom, George Moran and Lee Wyman, had not been identified in his prior designations, interrogatory answers, or otherwise.[8] Consequently, NG and NNS filed a second Motion to Strike Amended Designation of Expert Witnesses. *DE* 92, 93.

In the Final Pretrial Order entered by the district court, NG and NNS again objected to Moran and Wyman. *DE* 108, p. 5. At the pretrial hearing, the district court discussed the fact that Moran and Wyman were not among Captain Saudi's designated expert witnesses, and stated: "I don't think I specifically covered that in the order because I don't recall it being an issue at the time of the order." *Pet. App.* I, p. 79a, lines 18-20. The court further stated: "As to the other two [Moran and Wyman] who weren't on the original list, I don't know what to say because I didn't realize what the situation was there because I haven't gone through all of these various motions in reference to the pretrial conference . . . ." *Pet. App.* I, p. 80a, lines 20-24. The court did not at that time rule on the motion to strike.

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[8] A copy of Captain Saudi's August 12, 2004 letter is Exhibit 2 to Brief in Support of Defendants' Second Motion To Strike Plaintiff's Amended Designation of Expert Witnesses. *DE* 93.

Trial was held on October 12 and 13, 2004. [9] At the conclusion of the first day of trial, the district court heard argument on NG's and NNS's second motion to strike, and granted it, stating, in part:

> The Court granted you an extension when you came on August 4th. As counsel points out, I could have said, well, your time's up, you didn't file your expert designations, you can't file any expert designations. But I didn't do that. I said I'll give you until August 12th. And then what you did was you came up with two people who were not even on your original list.
>
> Now, I just wouldn't allow anybody to do that, and I'm not going to make an exception in your case. You simply can't do it. I'm going to grant the motion to strike those two people as experts. If you wish you can file their reports and depositions and whatever else you want to file about what they have to say. But it's simply too great a

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[9] In his Petition, Captain Saudi refers to the district court's denial of his request to subpoena expert witnesses designated by NG and NNS. *Pet.*, pp. 8-9. That request was made during the first day of trial and sought to compel their attendance for the next day. The district court denied the request as untimely. *Pet. App.* J, p. 89a, lines 2-22. A Local Rule states that, except for good cause shown, subpoenas for attendance of witnesses at trials "shall be served no later than 14 days" before the date of trial. Local Civil Rule 45(E).

> violation of this Court's rules to permit you to do what you're seeking to do. And it comes on the heels of so many other requests for special treatment. And I believe I made it clear to you in June that you weren't going to get any more special treatm^nt.

Fourth Cir. Supp. App. p. 209, line 11 - p. 210, line 3.

After the close of Captain Saudi's case, NG and NNS moved for judgment pursuant to Rule 52(c), which the district court granted. *Resp. App.* pp. 1-16.

REASONS WHY THE PETITION SHOULD BE DENIED

1. No Conflict Exists Among The Circuits As To The Application Of Sanctions Under Rule 37(C)(1) For Failure To Make Timely Expert Witness Disclosures

Captain Saudi's assertion that a conflict exists among the circuits as to whether a purported "outcome determinative sanction" may be imposed under Rule 37 absent violation of a "specific order" is patently incorrect.[10] There is no conflict among the circuits – the circuits uniformly interpret Rule 37(c)(1) to mean what it says: "A party that without substantial justification fails to disclose information required by Rule 26(a) . . . is not, unless such failure

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[10] Captain Saudi's assertion also misstates the facts of this case, in two respects. First, the exclusion of Moran and Wyman was not "outcome determinative." Captain Saudi had designated three expert witnesses on the issue of defective design - Moran, Wyman and a third, Salah Mahmoud. Yet, as the district court noted in its Order granting NG's and NNS's motion pursuant to Rule 52(c), Captain Saudi chose not to call Mahmoud, "opting instead to send Dr. Mahmoud home." *Resp. App.*, p. 8. Thus, Captain Saudi's failure to present expert testimony was his own doing rather than the district court's purported "outcome determinative" exclusion. Second, there was a violation of a "specific order" – Captain Saudi violated the August 5 Order when he submitted reports of experts he had not previously identified.

is harmless, permitted to use as evidence at trial . . . any witness or information not so disclosed." [11]

In his Petition, Captain Saudi cites no case that even suggests a conflict in the circuits regarding the application of Rule 37(c)(1). Instead, in a transparent attempt to manufacture a basis for granting his Petition, he simply cites cases involving other rules.[12]

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[11] Compare, for example, the Fourth Circuit's opinion affirming the district court in this case with the First Circuit's opinion in *Primus v. United States*, 389 F.3d 231, 234 (1st Cir. 2004)("The adoption of Rule 37(c)(1) in 1993 gave teeth to a significantly broadened duty to comply with case management orders, and mandatory preclusion is the required sanction in the ordinary case.")(citations and internal quotation marks omitted).

[12] Four of the cases cited in the Petition involved Rule 37(b)(2)(B) (or corollaries thereof) which, by its express terms, concerns the violation of a predicate order before certain sanctions may be imposed. *Genentech, Inc v. U. S. Int'l Trade Comm'n*, 122 F.3d 1409, 1418-20 (1997) (failure to produce documents (International Trade Commission Interim Rule corollary to Rule 37(b)); *R.W. Int'l Corp. v. Welch*, 937 F.2d 11, 14-16 (1st Cir. 1991) (failure to answer deposition questions); *Daval Steel Products v. M/V Fekredine*, 951 F.2d 1357, 1362-65 (2d Cir. 1991) (failure to cooperate at deposition, to produce documents and to comply with subpoena); *Ingalls Shipbuilding, Inc. v. U. S.*, 857 F.2d 1448, 1450-52 (Fed. Cir. 1989) (failure to answer interrogatories (Rules of the United States Claims Court corollary to Rule 37(b)). The other Rule 37 cases cited in the Petition were decided prior to the adoption of Rule 37(c)(1). *Dudley v. South Jersey Metal, Inc.*, 555 F.2d 96, 99-100 (3d Cir. 1977) (ambiguous interrogatory answer not deemed "incorrect when made"); *Meyers v. Pennypack Woods Home Ownership Ass'n*, 559 F.2d 894, 904-05 (3d Cir. 1977) *overruled on other grounds, Goodmen v. Lukens*, 777 F.2d 113 (3d Cir. 1985), *aff'd* 482 U.S. 656 (1987) (local rule excluding witnesses not listed in

The sanction of exclusion of witnesses not timely disclosed may be imposed under Rule 37(c)(1) – indeed, must be imposed, absent justification and harmlessness – even without an order any more specific than a scheduling order. There is no conflict among the circuits.

2. The Fourth Circuit Correctly Determined That The Exclusion Was Not an Abuse of Discretion.

The district court's decision to exclude two of Captain Saudi's expert witnesses is reviewed for abuse of discretion. *S. States Rack & Fixture, Inc. v. Sherwin-Williams Co.*, 318 F.3d 592, 595 (4th Cir. 2003).

Saudi's failure to provide the required expert witness disclosures was neither "substantially justified" nor "harmless" under Rule 37(c)(1). Accordingly, the Fourth Circuit correctly determined that the district court did not abuse its discretion in excluding those expert witnesses.

Saudi's proffered justification for failing to make the required disclosures – his purported inability to obtain information from NG and NNS –

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a pretrial memorandum). Indeed, all of these cases were decided prior to the adoption of Rule 37(c)(1) except *Genentech, Inc.* The other two cases cited in the Petition as support for a purported conflict involved contempt proceedings, *Int'l Union United Mine Workers of America v. Bagwell*, 512 U.S. 821 (1994) and a criminal case, *Taylor v. Illinois*, 484 U.S. 400 (1988) (affirming exclusion of witness as sanction for failure to disclose).

was not "substantial" given that he waited until months after the entry of the Scheduling Order, and within six weeks of the discovery cutoff, to conduct any discovery. He also failed to timely or properly raise any purported insufficiencies in NG's and NNS's discovery responses or disclosures.

Nor was Captain Saudi's failure to provide the expert disclosures harmless. As stated by the Fourth Circuit in its opinion affirming the judgment:

> Rule 26 disclosures are often the centerpiece of discovery in litigation that uses expert witnesses. A party that fails to provide these disclosures unfairly inhibits its opponent's ability to properly prepare, unnecessarily prolongs litigation, and undermines the district court's management of the case. For this reason, "we give particularly wide latitude to the district court's decision to issue sanctions under Rule 37(c)(1)." This latitude is particularly appropriate here.

Saudi v. Northrop Grumman Corp., 427 F.3d at 278-79, quoting *S. States Rack & Fixture*, 318 F.3d at 595.

Here, after Captain Saudi's failure to timely disclose his expert witnesses, NG and NNS were in the same position as defendants in two related cases filed by Captain Saudi in other courts. In both of those cases, the courts struck Captain Saudi's witnesses pursuant to Rule 37(c)(1) for failing to

make timely disclosures, without giving Captain Saudi further time to provide the disclosures.[13]

By contrast, in this case, the district court did give Captain Saudi additional time to provide the disclosures – an additional month from when they were due. Yet, Captain Saudi still failed to comply

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[13] See *Saudi v. Valmet-Appleton, Inc.*, 219 F.R.D. 128, 130 n. 1 (E.D. Wisc. 2004) (excluding all of Saudi's lay and expert witnesses, and noting that the United States District Court for the Southern District of Texas similarly struck 14 of Saudi's expert witnesses because he failed to timely make his Rule 26(a)(2) expert witness disclosures). As succinctly stated by the Fourth Circuit:

> We hasten to add that as the district court recognized, it could have struck at the outset all of Captain Saudi's expert witnesses as a sanction for his failure to timely file Rule 26 disclosures. This was the course pursued by the district courts in Captain Saudi's Wisconsin and Texas suits, when Captain Saudi similarly did not comply with Rule 26. *See Saudi v. Valmet-Appleton, Inc.*, 219 F.R.D. 128, 134 (2003); *Saudi v. S/T Mar. Atl.*, 2000 WL 33993435 *4 (S.D. Tex. 2000). In this case, the district court generously granted Saudi additional time to file disclosures on three design experts. Saudi's current contention - that the district court order limiting him to three expert witnesses did not require him to select those witnesses from his original Designation - is only an issue because Captain Saudi failed to file Rule 26 disclosures and received initially a lenient response. The district court should not be a victim of its own lenity, nor should Captain Saudi capitalize on his noncompliance with the court's rules.

Saudi v. Northrop Grumman Corp., 427 F.3d at 279.

with the district court's order when he provided reports for expert witnesses he had not previously designated.[14] The district court did not abuse its discretion in excluding those witnesses and the Fourth Circuit properly affirmed the judgment.

3. The Petition Raises No Issues of General Importance.

The exclusion of two of Captain Saudi's witnesses pursuant to Rule 37(c)(1) raises no issues of general importance. The exclusion was a routine

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[14] Captain Saudi's contention that the August 5 Order did not limit him to selecting three of the 30 expert witnesses he had originally identified is belied by the express terms of the order, and the district court's own interpretation of the order, as to which the Fourth Circuit accorded proper deference. *See Anderson v. Stephens*, 875 F.2d 76, 80 n. 8 (4th Cir. 1989) (a district court's interpretation of its own order is entitled to deference). Further, as the Fourth Circuit stated in its opinion:

> To the extent the order is ambiguous, an examination of the record indicates that the district court intended to limit Captain Saudi to his initial Designation. *See In re Tomlin*, 105 F.3d 933, 940 (4th Cir.1997) ("When an order is ambiguous, a court must construe its meaning, and in so doing may resort to the record upon which the judgment was based.") (internal quotation marks omitted). By limiting him to three expert witnesses only, the district court was attempting to cabin Captain Saudi's use of witnesses and place reasonable limits on this freewheeling litigation. Allowing Saudi to select from outside of the initial list would have achieved precisely the opposite result.

Saudi v. Northrop Grumman Corp., 427 F.3d at 279.

and unremarkable result of Saudi's failure to make timely disclosures and failure to comply with the district court's order after he was permitted additional time to make the disclosures.

CONCLUSION

The Petition fails to establish any basis for granting certiorari. There is no conflict among the circuits regarding the authority to exclude witnesses as a sanction under Rule 37(c)(1). The Fourth Circuit correctly determined that the district court's exclusion of two of Saudi's witnesses was not an abuse of discretion. The Petition raises no issues of general importance. The Petition should be denied.

Respectfully submitted,

Northrop Grumman Corporation and
Newport News Shipbuilding Inc.

By: R. Grant Decker
Counsel of Record
William L. Stauffer, Jr.
MILES & STOCKBRIDGE P.C.
1751 Pinnacle Drive, Suite 500
McLean, Virginia 22102
(703) 903-9000

Counsel for Respondents
Northrop Grumman Corporation and
Newport News Shipbuilding Inc.

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filed January 28, 2005.....3

United States District Court

Eastern District of Virginia
Norfolk Division

[FILED November 10, 2004]

Captain Sheriff Saudi,
Plaintiff(s)

v.

Northrop Grumman Corporation, et al,
Defendant(s)

AMENDED JUDGMENT IN A CIVIL CASE
CASE NUMBER: 2:03cv299

[ ] **Jury Verdict.** This action came before the Court for a trial by jury. The issues have been tried and the jury has rendered its verdict.

[X] **Decision by Court.** This action came to trial or hearing before the Court. The issues have been tried or heard and a decision has been rendered.

IT IS ORDERED AND ADJUDGED that motion for judgment of defendants, Northrop Grumman Corporation and Newport News Shipbuilding, Inc., on partial findings pursuant to Rule 52(c) of F.R.Civ.P., is GRANTED.

IT IS FURTHER ORDERED AND ADJUDGED that judgment is entered in favor of

defendants, Northrop Grumman Corporation, Newport News Shipbuilding, Inc., and Newport News Shipbuilding and Drydock Company.

DATE: November 9, 2004

Elizabeth H. Paret, *Clerk*

/s/Sandra L. Dance
(By)Deputy Clerk

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
NORFOLK DIVISION

[FILED January 28, 2005]

CAPTAIN SHERIFF SAUDI,

PLAINTIFF,

v. **CIVIL NO. : 2:03cv299**

NORTHROP GRUMMAN CORPORATION, *et al*,

DEFENDANTS.

ORDER

On October 12-13, 2004, this Court conducted a bench trial in the above-styled action on Plaintiffs claims for breach of implied warranty of merchantability, strict liability, and negligence. All claims arose from injuries Plaintiff, Captain Sheriff Saudi, allegedly received when a crane transporting him between two vessels in the Gulf of Mexico broke free and fell into the water. At the close of Plaintiff's case, Defendants, Northrop Grumman Corporation ("Northrop Grumman"), Newport News Shipbuilding, Incorporated ("Newport News Shipbuilding"), and Newport News Shipbuilding and

Drydock Company ("Drydock")[1], moved for judgment as a matter of law pursuant to FED. R. CIV. P. 52(c). The purpose of this order is to explain in more detail the rationale of the Court in granting this motion.

I. STANDARD OF REVIEW

Rule 52(c) provides in pertinent part:

> If during a trial without a jury a party has been fully heard on an issue and the court finds against the party on that issue, the court may enter judgment as a matter of law against that party with respect to a claim or defense that cannot under the controlling law be maintained or defeated without a favorable finding on that issue....

And it "is appropriate when, without weighing the credibility of witnesses, there can be but one reasonable conclusion as to the correct judgment. If, however, evidence viewed in a light most favorable to the nonmovant indicates that more than one

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[1] The prior history of this case can be found at Saudi v. Northrop Grumman Corp., No. 2:03cv299, 2004, U.S. Dist. LEXIS 5970 (E.D. Va. Apr. 6, 2004)(granting a motion by the Keppel defendants, to dismiss Plaintiff's claims against them). In a separate order, the Court granted a motion by Plaintiff to amend his complaint to add Drydock as a party.

conclusion is plausible, judgment as a matter of law is improper." Siegfried Constr., Inc. v. Gulf Ins. Co., 2000 U.S. App. LEXIS 1304 (4th Cir. 2000)(citing Anderson v. Liberty Lobby. Inc., 477 U.S. 242, 250-251 (1986)). Judgments entered pursuant to Rule 52(c) shall be supported by findings of fact and conclusions of law as required by subdivision (a) of the rule.

II. FINDINGS OF FACT AND NON-DISPOSITIVE MOTIONS

A. Findings of Fact.

Based upon the evidence introduced at trial, the Court finds the following facts:

On May 17, 1999, the S/T Marine Atlantic and the American Discovery were both at sea in the Gulf of Mexico.

Plaintiff was on board the S/T Marine Atlantic and sought to move to the American Discovery. At the time, a common method of transportation between vessels involved riding in a crane and basket.

While utilizing this technique, the S/T Marine Atlantic's crane collapsed, the basket in which Plaintiff was riding fell, and pieces of the crane dropped into the water.

Plaintiff jumped from the basket while it fell, but suffered injuries as a result of hitting the water and being struck by descending pieces of the crane.

Plaintiff's injuries were primarily to the left side of his body. He still has tingling in his left little finger; slightly limited left wrist motion; surgical scarring around his left elbow and shoulder; and some limitation of movement of that shoulder.

The ship now known as the S/T Marine Atlantic was fitted with the crane in question in 1979. Between 1979 and the date of the accident, the S/T Marine Atlantic was inactive for a minimum often and a maximum of thirteen years.

During the twenty years following affixation, the crane suffered corrosion, however, no evidence was introduced from which the Court could infer that corrosion was a factor in the collapse. Further, no evidence was introduced from which the Court could conclude why the crane collapsed.

B. Non-Dispositive Motions.

Three rulings of the Court undoubtedly shaped Plaintiffs presentation of his case. Each deserves mention.

1. After making his opening statement, but before calling his first witness, Plaintiff moved the Court to admit two foreign counsel. That Plaintiff's motion was made in the course of an ongoing trial was not its sole irregularity; Plaintiff and foreign counsel also neglected to comply with Local Rule 83.1(D), which requires that any motion for *pro hac vice* admission be made by a member of this Court. UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF VIRGINIA LOCAL RULE 83.1(D).

Plaintiff's protestations to the contrary, the Court had previously expressed concern that Plaintiff was receiving assistance from counsel. So, in a published opinion and order, the Court revoked Plaintiffs status as a *pro se* litigant. See Saudi v. Northrop Grumman Corp.. No. 2:03cv299, 2004, U.S. Dist. LEXIS 5970 at **7-8. The foreign counsel who sought to appear *pro hac vice* admitted that they assisted Plaintiff with the preparation of his case, although the exact nature of their assistance and the dates upon which they provided it are unknown. Under these circumstances, the Court declined to waive the requirement that foreign counsel be accompanied by local counsel. Furthermore, the Court prohibited Plaintiff from using trial materials prepared in conjunction with these foreign counsel.

2. Plaintiff sought to call George Moran and Lynn Wyman as expert witnesses. Pretrial, Defendants moved to strike Plaintiff's designation of these witnesses as experts (Doc. 92) and Defendants objected to their being called as witnesses at trial. Plaintiff was required by the FED. R. CIV. P. 16(b) Scheduling Order to designate expert witnesses and make FED. R. CIV. P. 26(a)(2)(B) disclosures to Defendants by July 12, 2004. Although Plaintiff submitted a list designating thirty experts, he failed to make the necessary disclosures in a timely fashion. Defendants moved to strike Plaintiff's designations and argument on this motion was heard on August 4, 2004. Because Plaintiff had not complied with the Rule 16(b) Scheduling Order, and had deprived Defendants of time to prepare for Plaintiff's designees as a result, the Court ordered Plaintiff to identify no more than three experts on

the subject of defective design and provide the necessary disclosures to Defendants by August 12, 2004. (Doc. 84.) The Court imposed no limit on the number of Plaintiff's previously designated medical experts that he could keep. Id. When Plaintiff submitted his revised designations to Defendants, it contained three defective design experts, but two of them, Moran and Wyman, had not been among Plaintiff's previous designations. By adding two additional design witnesses, rather than selecting three from the thirty experts previously designated, Plaintiff once again failed to comply with an order of the Court. Therefore, the Court granted Defendants' motion to strike the designation of Moran and Wyman as experts.

3. At the conclusion of the first day of trial, the Court became aware that Plaintiff sought to introduce materials from a trial stemming from the same incident as gives rise to this case, but in which these Defendants were not parties. Specifically, Plaintiff wanted to admit the deposition and former testimony of Dr. Salah Mahmoud. Dr. Mahmoud was one of Plaintiff's thirty original expert designations and the third of Plaintiff's maximum three defective design experts. Because the Court was concerned about the admissibility of the deposition and former testimony, the Court advised Plaintiff to be prepared, on the following day, to present authority to the Court supporting Plaintiffs theory of admissibility. Rather than heeding the Court's advice, Plaintiff chose not to call Dr. Mahmoud during the second day of trial, opting instead to send Dr. Mahmoud home. As a result, Plaintiff rested his case without introducing any

expert evidence concerning general crane design at the time of manufacture or the design of the particular crane in question.

III. SUFFICIENCY OF PLAINTIFF'S CLAIMS

Negligence and strict liability are established causes of action in admiralty. East River S.S. Corp v. Transamerica Delaval. Inc., 476 U.S. 858, 864-865 (1986)(specifically including negligence, strict liability, and the implied warranty of workmanlike service as parts of maritime law). They are governed by "an amalgam of traditional common-law rules, modifications of those rules, and newly created rules." Id. (citations omitted). On the other hand, the implied warranty of merchantability has not been directly recognized. Id. When such a claim arises in an admiralty context, the court "may look to the common law or to state law, either statutory or decisional, to supply the rule of decision." Princess Cruises, Inc. v. General Elec. Co., 143 F.3d 828, 834 (4th Cir. 1998). Plaintiff did not direct the Court to particular common law or state law that he wished the Court to consider. In contrast, Defendants' Proposed Findings of Fact and Conclusions of Law, as well as its argument on the Rule 52(c) motion, pointed the Court towards Virginia law regarding the implied warranty of merchantability. "Warranty liability under Virginia law for personal injuries caused by defective products is the functional equivalent of strict tort liability under the [*Restatement (Second) of Torts* § 402A (1965)]." Bly v. Otis Elevator Co., 713 F.2d 1040 (4th Cir. 1983)(citing Matthews v. Ford Motor Co., 479 F.2d 399, 401 n.2 (4th Cir. 1973)). Virginia

law treats warranty liability as such because Virginia does not recognize strict liability in tort as "another and separate theory of products liability...." Id. But for the purpose of this admiralty case, where strict liability in tort does exist, the analysis of the implied warranty of merchantability and strict liability should simply be combined. Thus, Defendants could be held liable for the manufacture or sale of a defective product under an implied warranty of merchantability/strict liability theory or a negligence theory. Id. (citations omitted).

A. Implied Warranty of Merchantability / Strict liability.

To make out a prima facie case of implied warranty of merchantability/strict liability, a plaintiff alleging defective manufacture or design must show the following:

> 1) that the goods were unreasonably dangerous either for the use to which they would ordinarily be put or for some other reasonably foreseeable purpose;
>
> 2) that the unreasonably dangerous condition existed when the goods left the defendant's hands; and
>
> 3) that the breach of duty by the manufacturer or seller was the proximate cause of the plaintiffs injuries

Movers v. Corometrics Medical Systems Inc., *et al*, 2000 U.S. App. LEXIS 6177, at *14 (4th Cir.)(unpublished)(citing Logan v. Montgomery Ward & Co., 219 S.E.2d 685, 687 (1975)); Butler v. Navistar Int'l Trasp. Corp., 809 F. Supp. 1202, 1207 (W.D. Va. 1991).

"A product is unreasonably dangerous if it is defective in assembly or manufacture, unreasonably dangerous in design, or unaccompanied by adequate warnings concerning its hazardous properties." Id. (citing Morgen Inds. v. Vaughan, 471 S.E.2d 489, 492 (Va. 1996)). At trial, Plaintiff did not adduce evidence sufficient to make out a *prima facie case* of implied warranty of merchantability/strict liability. In each of his claims, Plaintiff failed to meet both the unreasonable danger and proximate cause elements.

1. Plaintiff alleged that a coupling in the portside hose handling crane was unreasonably dangerous in design. (Pl's Am. Compl. at pp. 6-7.) He asserts that the coupling design did not provide for a method of lubrication or preservation "consistent with standards of the industry prevalent as of ... the year of manufacture." Id. Had the coupling design contained a method of lubrication, Plaintiff theorizes that the coupling would not have corroded and the crane would not have collapsed. As Plaintiff alluded to in his complaint, the reasonableness of a design is judged against the industry and government standards prevailing at the time of manufacture. Bly, 713 F.2d at 1043. Yet Plaintiff introduced no evidence of standards that applied as of the time of the crane's manufacture or any other time. Thus, Plaintiff did not establish that

the coupling design rendered the crane unreasonably dangerous. Even if Plaintiff showed that the design was unreasonably dangerous, Plaintiff failed to prove that the design was the proximate cause of the crane's collapse. "The proximate cause of an event is that act or omission which, in natural and continuous sequence, unbroken by an efficient intervening cause, produces the event, and without which that event would not have occurred." Movers, at *16 (citing Banks v. City of Richmond, 348 S.E.2d 280, 282 (Va. 1986)). Plaintiff introduced no evidence of why the crane fell, much less evidence that a particular piece caused the crane to fall for a specific reason, i.e. corrosion.

2. Plaintiff also alleged that Defendants failed to provide an adequate warning that maintenance of the crane required complete disassembly of the coupling "to perform adequate inspection and lubrication." (Pl's Am. Compl. at p. 7.) A close reading of Plaintiff's complaint reveals the rudiment of his claim: the spline coupling was dangerous because it was difficult to maintain. (Id. at pp. 7-8, ¶ 6.) "A manufacturer may breach its implied warranty of merchantability by failing to warn or instruct concerning dangerous propensities or characteristics of a product even if that product is flawless in design and manufacture." Bly, 713 F.2d at 1045 (citations omitted). Defendants' duty to warn existed as of the time the ship, onto which the crane was affixed, was sold. Butler, 809 F. Supp. at 1207 (duty exists as of time product leaves control of producer). But Plaintiff submitted no evidence of the maintenance the coupling required or how complex it was to perform such maintenance. Therefore, the

Court cannot conclude that Defendants had a specific duty to warn about coupling maintenance. Id. (finding that plaintiff met burden of establishing a warning was necessary by introducing published articles noting a particular danger). Even if Plaintiff showed that Defendants failed to warn that the spline coupling posed specific maintenance challenges, Plaintiff did not prove that deficient maintenance, and subsequent corrosion, of the coupling was the proximate cause of the crane's collapse.

B. Negligence.

The elements of a negligence cause of action alleging defective design or failure to adequately warn are nearly identical to the elements of an implied warranty of merchantability/strict liability cause of action premised on the same claims. See Butler, 809 F. Supp. at 1209; Bly, 713 F.2d at 1045. Under a negligence theory, however, the focus of each claim shifts from the product to the manufacturer. Movers, at *16, n.6. Yet this does not compel a different result in this case.

1. With respect to Plaintiff's defective design allegation, the focus under an implied warranty of merchantability/strict liability analysis was "on the product and its attributes...." Id. Under a negligence analysis, a court must look to the defendant's conduct and determine whether it was reasonable. Id. Plaintiff called two employees of Defendants as witnesses to testify concerning Defendants' conduct during the procurement, manufacture, and affixation of the crane to the ship

prior to sale. David McKercher described a process in which the engineering department would receive a performance specification, draft a requisition, and place an order for a crane destined to be attached to a ship. McKercher's testimony is of limited relevance because he was not employed by Defendants at the time of manufacture of the crane in question and he could not state with certainty whether the process he described was used in 1979. Plaintiff's second witness on the issue, Robert Lea, testified that there was not a specific process in place. Crane procurement was done on a case-by-case basis and, although Lea remembered the crane in question, he did not work on it personally. Simply put, McKercher and Lea presented conflicting accounts of Defendants' conduct during the acquisition and affixation of other cranes, but neither described Defendants' conduct regarding this crane. Thus, Plaintiff did not establish that Defendants' procurement, manufacture, or affixation of the crane to the ship was negligent.

2. With respect to Plaintiff's failure to adequately warn allegation, the focus under an implied warranty of merchantability/strict liability analysis was on "whether the inadequate warnings render the product unreasonably dangerous" at the time of sale. See Movers, at * 16, n.6; Butler, 809 F. Supp. at 1207. Under a negligence analysis, a court looks to the defendant's conduct to determine if it was reasonable. Movers, at *16, n.6. And the defendant's "duty to warn is continuous and not interrupted by manufacture or sale of the product." Id. (citing Bly, 713 F.2d at 1045-1046). As stated in Section IIA(2), Plaintiff submitted no evidence that

Defendants' knew the spline coupling was difficult to maintain. Nor did Plaintiff adduce evidence that Defendants *should have known* this condition. See id. at 1045, n.8 (citing *Restatement (Second) of Torts* § 388 (1977)). Furthermore, Plaintiff failed to produce, in admissible form, the crane manual or other evidence of the warnings made by Defendants. Given that the Court is to focus on the reasonableness of Defendants' actions, Plaintiff's error in this regard was fatal to his claim.

The proximate cause requirement under a negligence theory is identical to that required under an implied warranty of merchantability/strict liability theory. Having failed to establish that the coupling rendered the crane unreasonably dangerous, either because of a defect in design or a failure to warn, Plaintiff's negligence claims do not require the Court to reach the proximate cause element. But even if Plaintiff were able to show that the coupling was unreasonably dangerous, he did not proffer evidence to show that the unreasonable danger produced the crane collapse because he introduced no evidence of why the crane collapsed.

CONCLUSION

For the reasons stated in this Order, the Court **GRANTED** Defendants' Motion for Judgment as a Matter of Law pursuant to FED. R. CIV. P. 52(c)

The Clerk is **REQUESTED** to mail a copy of this Order to all counsel of record. It is so **ORDERED.**

/s/HENRY COKE MORGAN, JR.
HENRY COCKE MORGAN, JR.
SENIOR UNITED STATES DISTRICT JUDGE

Norfolk, Virginia
January /28/, 2005